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MARCH 11, 1980

96TH CONGRESS  
2D SESSION

**H. R.**

To promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

March , 1980

Mr. introduced the following bill; which was referred jointly to the Committees on Foreign Affairs and Post Office and Civil Service

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**A BILL**

To promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE.—This Act may be cited as  
4 the “Foreign Service Act of 1980”.

5 SEC. 2. TABLE OF CONTENTS.—The table of contents  
6 for this Act is as follows:

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1       TITLE I—THE FOREIGN SERVICE OF THE  
2                                   UNITED STATES

3                   CHAPTER 1—GENERAL PROVISIONS

4       SEC. 101. FINDINGS AND OBJECTIVES.—(a) The Con-  
5 gress finds that—

6               (1) a career foreign service, characterized by ex-  
7 cellence and professionalism, is essential in the national  
8 interest to assist the President and the Secretary of  
9 State in conducting the foreign affairs of the United  
10 States;

11              (2) the scope and complexity of the foreign affairs  
12 of the Nation have heightened the need for a profes-  
13 sional foreign service that will serve the foreign affairs  
14 interests of the United States in an integrated fashion  
15 and that can provide a resource of qualified personnel  
16 for the President, the Secretary of State, and the agen-  
17 cies concerned with foreign affairs;

18              (3) the Foreign Service of the United States, es-  
19 tablished under the Act of May 24, 1924 (commonly  
20 known as the Rogers Act) and continued by the For-  
21 eign Service Act of 1946, must be preserved, strength-  
22 ened, and improved in order to carry out its mission  
23 effectively in response to the complex challenges of  
24 modern diplomacy and international relations;

1           (4) the members of the Foreign Service should be  
2       representative of the American people, aware of the  
3       principles and history of the United States and in-  
4       formed of current concerns and trends in American life,  
5       knowledgeable of the affairs, cultures, and languages of  
6       other countries, and available to serve in assignments  
7       throughout the world; and

8           (5) the Foreign Service should be operated on the  
9       basis of merit principles.

10       (b) The objective of this Act is to strengthen and im-  
11      prove the Foreign Service of the United States by—

12           (1) assuring, in accordance with merit principles,  
13       admission through impartial and rigorous examination,  
14       acquisition of career status only by those who have  
15       demonstrated their fitness through successful comple-  
16       tion of probationary assignments, effective career de-  
17       velopment, advancement and retention of the ablest,  
18       and separation of those who do not meet the requisite  
19       standards of performance;

20           (2) fostering the development and vigorous imple-  
21       mentation of policies and procedures, including affirma-  
22       tive action programs, which will facilitate and encour-  
23       age (A) entry into and advancement in the Foreign  
24       Service by persons from all segments of American soci-  
25       ety, and (B) equal opportunity and fair and equitable

1 treatment for all without regard to political affiliation,  
2 race, color, religion, national origin, sex, marital  
3 status, age, or handicapping condition;

4 (3) providing for more efficient, economical, and  
5 equitable personnel administration through a simplified  
6 structure of Foreign Service personnel categories and  
7 salaries;

8 (4) establishing a statutory basis for participation  
9 by the members of the Foreign Service, through their  
10 elected representatives, in the formulation of personnel  
11 policies and procedures which affect their conditions of  
12 employment, and maintaining a fair and effective  
13 system for the resolution of individual grievances;

14 (5) minimizing the impact of the hardships, interrup-  
15 tions, and other unusual conditions of service abroad  
16 upon the members of the Foreign Service, and mitigat-  
17 ing the special impact of such conditions upon their  
18 families;

19 (6) providing salaries, allowances, and benefits  
20 that will permit the Foreign Service to attract and  
21 retain qualified personnel as well as a system of incen-  
22 tive payments and awards to encourage and reward  
23 outstanding performance;

24 (7) establishing a Senior Foreign Service which is  
25 characterized by strong policy formulation capabilities,

1 outstanding executive leadership qualities, and highly  
2 developed functional and area expertise;

3 (8) improving Foreign Service managerial flexibil-  
4 ity and effectiveness;

5 (9) increasing efficiency and economy by promot-  
6 ing maximum compatibility among the agencies author-  
7 ized by law to utilize the Foreign Service personnel  
8 system, as well as compatibility between the Foreign  
9 Service personnel system and other personnel systems  
10 of the Government; and

11 (10) otherwise enabling the Foreign Service to  
12 serve effectively the interests of the United States and  
13 to provide the highest caliber of representation in the  
14 conduct of foreign affairs.

15 SEC. 102. DEFINITIONS.—(a) As used in this Act, the  
16 term—

17 (1) “abroad” means all areas not included within  
18 the United States;

19 (2) “agency” means an agency as defined in sec-  
20 tion 552(e) of title 5, United States Code;

21 (3) “chief of mission” means the principal officer  
22 in charge of a diplomatic mission of the United States  
23 or of a United States office abroad which is designated  
24 by the Secretary of State as diplomatic in nature, in-

1       cluding any individual assigned under section 502(c) to  
2       be temporarily in charge of such a mission or office;

3           (4) "Department" means the Department of  
4       State, except that with reference to the exercise of  
5       functions under this Act with respect to another  
6       agency authorized by law to utilize the Foreign Serv-  
7       ice personnel system, such term means that other  
8       agency;

9           (5) "employee" (except as provided in section  
10       1002(8)) means, when used with respect to an agency  
11       or to the Government generally, an officer or employee  
12       (including a member of the Service) or a member of the  
13       Armed Forces of the United States, the commissioned  
14       corps of the Public Health Service, or the commis-  
15       sioned corps of the National Oceanic and Atmospheric  
16       Administration;

17           (6) "function" includes any duty, obligation,  
18       power, authority, responsibility, right, privilege, discre-  
19       tion, or activity;

20           (7) "Government" means the Government of the  
21       United States;

22           (8) "merit principles" means the principles set out  
23       in section 2301(b) of title 5, United States Code;

1           (9) "principal officer" means the officer in charge  
2 of a diplomatic mission, consular mission (other than a  
3 consular agency), or other Foreign Service post;

4           (10) "Secretary" means the Secretary of State,  
5 except that (subject to section 201(b)) with reference to  
6 the exercise of functions under this Act with respect to  
7 any agency authorized by law to utilize the Foreign  
8 Service personnel system, such term means the head of  
9 that agency;

10          (11) "Service" or "Foreign Service" means the  
11 Foreign Service of the United States; and

12          (12) "United States", when used in a geographic  
13 sense, means the several States and the District of  
14 Columbia.

15          (b) References in this Act or any other law to "Foreign  
16 Service officers" shall, with respect to the International  
17 Communication Agency, be deemed to refer to Foreign Serv-  
18 ice information officers.

19          SEC. 103. MEMBERS OF THE SERVICE.—The following  
20 are the members of the Service:

21           (1) Chiefs of mission, appointed under section  
22 302(a)(1) or assigned under section 502(c).

23           (2) Ambassadors at large, appointed under section  
24 302(a)(1).

1           (3) Members of the Senior Foreign Service, ap-  
2           pointed under section 302(a)(1) or 303, who are the  
3           corps of leaders and experts for the management of the  
4           Service and the performance of its functions.

5           (4) Foreign Service officers, appointed under sec-  
6           tion 302(a)(1), who have general responsibility for car-  
7           rying out the functions of the Service.

8           (5) Foreign Service personnel, United States citi-  
9           zens appointed under section 303, who provide skills  
10          and services required for effective performance by the  
11          Service.

12          (6) Foreign national employees, foreign nationals  
13          appointed under section 303, who provide clerical, ad-  
14          ministrative, technical, fiscal, and other support at For-  
15          eign Service posts abroad.

16          (7) Consular agents, appointed under section 303  
17          by the Secretary of State, who provide consular and  
18          related services as authorized by the Secretary of State  
19          at specified locations abroad where no Foreign Service  
20          posts are situated.

21          SEC. 104. FUNCTIONS OF THE SERVICE.—Members of  
22          the Service shall, under the direction of the Secretary—

23               (1) represent the interests of the United States in  
24               relation to foreign countries and international organiza-  
25               tions, and perform the functions relevant to their ap-



1 pointments and assignments, including (as appropriate)  
2 functions under the Vienna Convention on Diplomatic  
3 Relations, the Vienna Convention on Consular Rela-  
4 tions, other international agreements to which the  
5 United States is a party, the laws of the United States,  
6 and orders, regulations, and directives issued pursuant  
7 to law;

8 (2) provide guidance for the formulation and con-  
9 duct of programs and activities of the Department and  
10 other agencies which relate to the foreign relations of  
11 the United States; and

12 (3) perform functions on behalf of any agency or  
13 other Government establishment (including any estab-  
14 lishment in the legislative or judicial branch) requiring  
15 their services.

16 SEC. 105. MERIT PRINCIPLES; PROTECTIONS FOR  
17 MEMBERS OF THE SERVICE; AND MINORITY RECRUIT-  
18 MENT.—(a)(1) All personnel actions with respect to career  
19 members and career candidates in the Service (including ap-  
20 plicants for career candidate appointments) shall be made in  
21 accordance with merit principles.

22 (2) For purposes of paragraph (1), the term “personnel  
23 action” means—

24 (A) any appointment, promotion, assignment (in-  
25 cluding assignment to any position or salary class),

1       award of performance pay or special differential,  
2       within-class salary increase, separation, or performance  
3       evaluation, and

4               (B) any decision, recommendation, examination, or  
5       ranking provided for under this Act which relates to  
6       any action referred to in subparagraph (A).

7       (b) The Secretary shall administer the provisions of this  
8       Act and shall prescribe such regulations as may be necessary  
9       to ensure that members of the Service, as well as applicants  
10      for appointments in the Service—

11              (1) are free from discrimination on the basis of  
12      race, color, religion, sex, national origin, age, handi-  
13      capping condition, marital status, or political affiliation,  
14      as prohibited under section 2302(b)(1) of title 5, United  
15      States Code;

16              (2) are free from reprisal for—

17                      (A) a disclosure of information by a member  
18                      or applicant which the member or applicant rea-  
19                      sonably believes evidences—

20                              (i) a violation of any law, rule, or regu-  
21                              lation, or

22                              (ii) mismanagement, a gross waste of  
23                              funds, an abuse of authority, or a substantial  
24                              and specific danger to public health or  
25                              safety,

1 if such disclosure is not specifically prohibited by  
2 law and if such information is not specifically re-  
3 quired by Executive order to be kept secret in the  
4 interest of national defense or the conduct of for-  
5 eign affairs; or

6 (B) a disclosure to the Special Counsel of the  
7 Merit Systems Protection Board, or to the Inspec-  
8 tor General of an agency (including the Inspector  
9 General of the Foreign Service) or another em-  
10 ployee designated by the head of the agency to  
11 receive such disclosures, of information which the  
12 member or applicant reasonably believes evi-  
13 dences—

14 (i) a violation of any law, rule, or regu-  
15 lation, or

16 (ii) mismanagement, a gross waste of  
17 funds, an abuse of authority, or a substantial  
18 and specific danger to public health or  
19 safety;

20 (3) are free to submit to officials of the Service  
21 and the Department any report, evaluation, or recom-  
22 mendation, including the right to submit such report,  
23 evaluation, or recommendation through a separate dis-  
24 sent channel, whether or not the views expressed  
25 therein are in accord with approved policy, unless the

1 report, evaluation, or recommendation was submitted  
2 with the knowledge that it was false or with willful  
3 disregard for its truth or falsity; and

4 (4) are free from any personnel practice prohibited  
5 by section 2302 of title 5, United States Code.

6 (c) This section shall not be construed as authorizing the  
7 withholding of information from the Congress or the taking of  
8 any action against a member of the Service who discloses  
9 information to the Congress.

10 (d)(1) The Secretary shall establish a minority recruit-  
11 ment program for the Service consistent with section 7201 of  
12 title 5, United States Code.

13 (2) Not later than January 31 of each year, the Secre-  
14 tary shall transmit to each House of the Congress a report,  
15 signed by the Secretary, on the activities of the Secretary  
16 under paragraph (1). Such report shall include any affirma-  
17 tive action plans submitted by the Secretary under section  
18 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16)  
19 and any data necessary to evaluate the effectiveness of the  
20 program under paragraph (1) for the preceding fiscal year,  
21 together with recommendations for administrative or legisla-  
22 tive action the Secretary considers appropriate.

23 (e) This section shall not be construed to extinguish or  
24 lessen any effort to achieve equal employment opportunity  
25 through affirmative action or any right or remedy available to

1 any employee or applicant for employment in the civil service  
2 under—

3 (1) section 717 of the Civil Rights Act of 1964  
4 (42 U.S.C. 2000e-16), prohibiting discrimination on  
5 the basis of race, color, religion, sex, or national origin;

6 (2) sections 12 and 15 of the Age Discrimination  
7 in Employment Act of 1967 (29 U.S.C. 631, 633a),  
8 prohibiting discrimination on the basis of age;

9 (3) section 6(d) of the Fair Labor Standards Act  
10 of 1938 (29 U.S.C. 206(d)), prohibiting discrimination  
11 on the basis of sex;

12 (4) sections 501 and 505 of the Rehabilitation Act  
13 of 1973 (29 U.S.C. 791, 794a), prohibiting discrimina-  
14 tion on the basis of handicapping condition; or

15 (5) any provision of law, rule, or regulation pro-  
16 hibiting discrimination on the basis of marital status or  
17 political affiliation.

18 CHAPTER 2—MANAGEMENT OF THE SERVICE

19 SEC. 201. THE SECRETARY OF STATE.—(a) Under the  
20 direction of the President, the Secretary of State shall admin-  
21 ister and direct the Service and shall coordinate its activities  
22 with the needs of the Department of State and other agen-  
23 cies.

24 (b) The Secretary of State alone among the heads of  
25 agencies utilizing the Foreign Service personnel system shall

1 perform the functions expressly vested in the Secretary of  
2 State by this Act.

3 SEC. 202. OTHER AGENCIES UTILIZING THE FOREIGN  
4 SERVICE PERSONNEL SYSTEM.—(a) The Director of the In-  
5 ternational Communication Agency, the Director of the  
6 United States International Development Cooperation  
7 Agency, the Secretary of Agriculture, and the Secretary of  
8 Commerce may utilize the Foreign Service personnel system  
9 with respect to their respective agencies in accordance with  
10 this Act.

11 (b) Subject to section 201(b)—

12 (1) the agency heads referred to in subsection (a),  
13 and

14 (2) the head of any other agency (to the extent  
15 authority to utilize the Foreign Service personnel  
16 system is granted to such agency head under any other  
17 Act),

18 shall in the case of their respective agencies exercise the  
19 functions vested in the Secretary by this Act.

20 SEC. 203. COMPATIBILITY AMONG AGENCIES UTILIZ-  
21 ING THE FOREIGN SERVICE PERSONNEL SYSTEM.—(a) The  
22 Service shall be administered to the extent practicable in a  
23 manner that will assure maximum compatibility among the  
24 agencies authorized by law to utilize the Foreign Service per-

1 sonnel system. To this end, the other heads of such agencies  
2 shall consult regularly with the Secretary of State.

3 (b) Nothing in this chapter shall be construed as dimin-  
4 ishing the authority of the head of any agency authorized by  
5 law to utilize the Foreign Service personnel system.

6 SEC. 204. CONSOLIDATED AND UNIFORM ADMINIS-  
7 TRATION OF THE SERVICE.—The Secretary shall on a con-  
8 tinuing basis consider the need for uniformity of personnel  
9 policies and procedures and for consolidation (in accordance  
10 with section 23 of the State Department Basic Authorities  
11 Act of 1956 (22 U.S.C. 2695)) of personnel functions among  
12 agencies utilizing the Foreign Service personnel system.  
13 Where feasible, the Secretary of State shall encourage (in  
14 consultation with the other heads of such agencies) the devel-  
15 opment of uniform policies and procedures and consolidated  
16 personnel functions.

17 SEC. 205. COMPATIBILITY BETWEEN THE FOREIGN  
18 SERVICE AND OTHER GOVERNMENT PERSONNEL SYS-  
19 TEMS.—The Service shall be administered to the extent  
20 practicable in conformity with general policies and regula-  
21 tions of the Government. The Secretary shall consult with  
22 the Director of the Office of Personnel Management, the Di-  
23 rector of the Office of Management and Budget, and the  
24 heads of such other agencies as the President shall deter-  
25 mine, in order to assure compatibility of the Foreign Service

1 personnel system with other Government personnel systems  
2 to the extent practicable.

3 SEC. 206. REGULATIONS; DELEGATION OF FUNC-  
4 TIONS.—(a) The Secretary may prescribe such regulations as  
5 the Secretary deems appropriate to carry out functions under  
6 this Act.

7 (b) The Secretary may delegate functions under this Act  
8 which are vested in the Secretary to any employee of the  
9 Department or any member of the Service.

10 SEC. 207. CHIEF OF MISSION.—(a) Under the direction  
11 of the President, the chief of mission to a foreign country—

12 (1) shall have full responsibility for the direction,  
13 coordination, and supervision of all Government em-  
14 ployees in that country (except for employees under  
15 the command of a United States area military com-  
16 mander); and

17 (2) shall keep fully and currently informed with  
18 respect to all activities and operations of the Govern-  
19 ment within that country, and shall insure that all  
20 Government employees in that country (except for em-  
21 ployees under the command of a United States area  
22 military commander) comply fully with all applicable  
23 directives of the chief of mission.

24 (b) Any agency having employees in a foreign country  
25 shall keep the chief of mission to that country fully and cur-



1 rently informed with respect to all activities and operations of  
2 its employees in that country, and shall insure that all of its  
3 employees in that country (except for employees under the  
4 command of a United States area military commander)  
5 comply fully with all applicable directives of the chief of mis-  
6 sion.

7       SEC. 208. DIRECTOR GENERAL OF THE FOREIGN  
8 SERVICE.—There shall be a Director General of the Foreign  
9 Service, who shall be appointed by the President, by and  
10 with the advice and consent of the Senate, from among the  
11 career members of the Senior Foreign Service. The Director  
12 General shall assist the Secretary of State in the manage-  
13 ment of the Service and shall perform such functions as the  
14 Secretary of State may prescribe.

15       SEC. 209. INSPECTOR GENERAL OF THE FOREIGN  
16 SERVICE.—(a) There shall be an Inspector General of the  
17 Foreign Service, who shall be appointed by the President, by  
18 and with the advice and consent of the Senate, from among  
19 individuals exceptionally qualified for the position by virtue of  
20 their integrity, their knowledge and experience in the conduct  
21 of foreign affairs, and their demonstrated ability in account-  
22 ing, auditing, financial analysis, law, management analysis,  
23 public administration, or investigations. The Inspector Gen-  
24 eral shall report to and be under the general supervision of  
25 the Secretary of State. The Inspector General shall periodi-

1 cally (at least every 5 years) inspect and audit the adminis-  
2 tration of activities and operations of each Foreign Service  
3 post and each bureau and other operating unit of the Depart-  
4 ment of State, and shall perform such other functions as the  
5 Secretary of State may prescribe.

6 (b) Inspections, investigations, and audits conducted by  
7 or under the direction of the Inspector General shall include  
8 the systematic review and evaluation of the administration of  
9 activities and operations of Foreign Service posts and bu-  
10 reaus and other operating units of the Department of State,  
11 including an examination of—

12 (1) whether financial transactions and accounts  
13 are properly conducted, maintained, and reported;

14 (2) whether resources are being used and man-  
15 aged with the maximum degree of efficiency, effective-  
16 ness, and economy;

17 (3) whether the administration of activities and  
18 operations meets the requirements of applicable laws  
19 and regulations and, specifically, whether such admin-  
20 istration is consistent with the requirements of section  
21 105;

22 (4) whether there exist instances of fraud or other  
23 serious problems, abuses, or deficiencies, and whether  
24 adequate steps for detection, correction, and prevention  
25 have been taken; and

1           (5) whether policy goals and objectives are being  
2           effectively achieved and whether the interests of the  
3           United States are being accurately and effectively  
4           represented.

5           (c) The Inspector General shall develop and implement  
6           policies and procedures for the inspection and audit activities  
7           carried out under this section. These policies and procedures  
8           shall be consistent with the general policies and guidelines of  
9           the Government for inspection and audit activities and shall  
10          comply with the standards established by the Comptroller  
11          General of the United States for audits of Government agen-  
12          cies, organizations, programs, activities, and functions.

13          (d)(1) The Inspector General shall keep the Secretary of  
14          State fully and currently informed, by means of the reports  
15          required by paragraphs (2) and (3) and otherwise, concerning  
16          fraud and other serious problems, abuses, and deficiencies re-  
17          lating to the administration of activities and operations ad-  
18          ministered or financed by the Department of State.

19          (2) The Inspector General shall, not later than April 30  
20          of each year, prepare and furnish to the Secretary of State an  
21          annual report summarizing the activities of the Inspector  
22          General. Such report shall include—

23                (A) a description of significant problems, abuses,  
24                and deficiencies relating to the administration of activi-  
25                ties and operations of Foreign Service posts, and bu-

1 reaus and other operating units of the Department of  
2 State, which were disclosed by the Inspector General  
3 within the previous year;

4 (B) a description of the recommendations for cor-  
5 rective action made by the Inspector General during  
6 the previous year with respect to significant problems,  
7 abuses, or deficiencies described pursuant to subpara-  
8 graph (A);

9 (C) an identification of each significant recommen-  
10 dation described in previous annual reports on which  
11 corrective action has not been completed;

12 (D) a summary of matters referred to prosecutive  
13 authorities and the prosecutions and convictions which  
14 have resulted; and

15 (E) a listing of each audit report completed by the  
16 Inspector General during the previous year.

17 The Secretary of State shall transmit a copy of such annual  
18 report within 30 days after receiving it to the Committee on  
19 Foreign Relations of the Senate and the Committee on For-  
20 eign Affairs of the House of Representatives, together with a  
21 report of the Secretary of State containing any comments  
22 which the Secretary of State deems appropriate. Within 60  
23 days after transmitting such reports to those committees, the  
24 Secretary of State shall make copies of them available to the  
25 public upon request and at a reasonable cost.

1       (3) The Inspector General shall report immediately to  
2 the Secretary of State whenever the Inspector General be-  
3 comes aware of particularly serious or flagrant problems,  
4 abuses, or deficiencies relating to the administration of activi-  
5 ties and operations of Foreign Service posts or bureaus or  
6 other operating units of the Department of State. The Secre-  
7 tary of State shall transmit any such report to the Committee  
8 on Foreign Relations of the Senate and the Committee on  
9 Foreign Affairs of the House of Representatives within 7  
10 days after receiving it, together with a report by the Secre-  
11 tary of State containing any comments the Secretary of State  
12 deems appropriate.

13       (4) Nothing in this subsection shall be construed to au-  
14 thorize the public disclosure by any individual of any informa-  
15 tion which is—

16               (A) specifically prohibited from disclosure by any  
17 other provision of law; or

18               (B) specifically required by Executive order to be  
19 kept secret in the interest of national defense or the  
20 conduct of foreign affairs.

21       (e)(1) The Inspector General may receive and investi-  
22 gate complaints or information from a member of the Service  
23 or employee of the Department concerning the possible exist-  
24 ence of an activity constituting a violation of laws or regula-  
25 tions, constituting mismanagement, gross waste of funds, or

1 abuse of authority, or constituting a substantial and specific  
2 danger to public health or safety.

3 (2) The Inspector General shall not, after receipt of a  
4 complaint or information from a member of the Service or  
5 employee of the Department, disclose the identity of such  
6 individual without the consent of such the individual, unless  
7 the Inspector General determines such disclosure is unavoi-  
8 dable during the course of the investigation.

9 (f) Under the general supervision of the Secretary of  
10 State, the Inspector General may review activities and oper-  
11 ations performed under the direction, coordination, and su-  
12 pervision of chiefs of mission for the purpose of ascertaining  
13 their consonance with the foreign policy of the United States  
14 and their consistency with the responsibilities of the Secre-  
15 tary of State and the chief of mission.

16 SEC. 210. BOARD OF THE FOREIGN SERVICE.—The  
17 President shall establish a Board of the Foreign Service to  
18 advise the Secretary of State on matters relating to the Serv-  
19 ice, including furtherance of the objectives of maximum com-  
20 patibility among agencies authorized by law to utilize the  
21 Foreign Service personnel system and compatibility between  
22 the Foreign Service personnel system and the other person-  
23 nel systems of the Government. The Board of the Foreign  
24 Service shall be chaired by a career member of the Senior  
25 Foreign Service designated by the Secretary of State and

1 shall include one or more senior representatives of the De-  
2 partment of State, the International Communication Agency,  
3 the United States International Development Cooperation  
4 Agency, the Department of Agriculture, the Department of  
5 Commerce, the Office of Personnel Management, the Office  
6 of Management and Budget, the Equal Employment Oppor-  
7 tunity Commission, and such other agencies as the President  
8 may designate.

9       SEC. 211. BOARD OF EXAMINERS FOR THE FOREIGN  
10 SERVICE.—(a) The President shall establish a Board of Ex-  
11 aminers for the Foreign Service to develop, and supervise the  
12 administration of, examinations prescribed under section  
13 301(b) to be given to candidates for appointment in the Serv-  
14 ice. The Board shall consist of 15 members appointed by the  
15 President (no fewer than 5 of whom shall be appointed from  
16 among individuals who are not Government employees and  
17 who shall be qualified for service on the Board by virtue of  
18 their knowledge, experience, or training in the fields of ad-  
19 ministration testing or equal employment opportunity). The  
20 Board shall include representatives of agencies utilizing the  
21 Foreign Service personnel system and representatives of  
22 other agencies which have responsibility for employment  
23 testing. The Board shall be chaired by a member of the  
24 Board, designated by the President, who is a member of the  
25 Service.

1 (b) The Board of Examiners shall periodically review  
2 the examinations prescribed under section 301(b) in order to  
3 determine—

4 (1) whether any such examination has an adverse  
5 impact on the hiring, promotion, or other employment  
6 opportunity of members of any race, sex, or ethnic  
7 group;

8 (2) methods of minimizing any such adverse  
9 impact;

10 (3) alternatives to any examinations which have  
11 such an adverse impact; and

12 (4) whether such examinations are valid in rela-  
13 tion to job performance.

14 The Board of Examiners shall annually report its findings  
15 under this subsection to the Secretary of State and shall fur-  
16 nish to the Secretary of State its recommendations for im-  
17 provements in the development, use, and administration of  
18 the examinations prescribed under section 301(b).

19 (c) Any vacancy or vacancies on the Board shall not  
20 impair the right of the remaining members to exercise the full  
21 powers of the Board.

22 CHAPTER 3—APPOINTMENTS

23 SEC. 301. GENERAL PROVISIONS RELATING TO AP-  
24 POINTMENTS.—(a) Only citizens of the United States may be



1 appointed to the Service, other than for service abroad as a  
2 consular agent or as a foreign national employee.

3 (b) The Secretary shall prescribe, as appropriate, writ-  
4 ten, oral, physical, and other examinations for appointment to  
5 the Service (other than as a chief of mission or ambassador at  
6 large).

7 (c) The fact that an applicant for appointment as a For-  
8 eign Service officer candidate is a veteran or disabled veteran  
9 shall be considered an affirmative factor in making such ap-  
10 pointments. As used in this subsection, the term "veteran or  
11 disabled veteran" means an individual who is a preference  
12 eligible under subparagraph (A), (B), or (C) of section 2108(3)  
13 of title 5, United States Code.

14 (d)(1) Members of the Service serving under career ap-  
15 pointments are career members of the Service. Members of  
16 the Service serving under limited appointments are either  
17 career candidates or noncareer members of the Service.

18 (2) Chiefs of mission, ambassadors at large, ministers,  
19 serve at the pleasure of the President.

20 (3) An appointment as a Foreign Service officer is a  
21 career appointment.

22 SEC. 302. APPOINTMENTS BY THE PRESIDENT.—(a)(1)  
23 The President may, by and with the advice and consent of  
24 the Senate, appoint an individual as a chief of mission, as an

1 ambassador at large, as a minister, as a career member of the  
2 Senior Foreign Service, or as a Foreign Service officer.

3 (2)(A) The President may, by and with the advice and  
4 consent of the Senate, confer the personal rank of career am-  
5 bassador upon a career member of the Senior Foreign Serv-  
6 ice in recognition of especially distinguished service over a  
7 sustained period.

8 (B) The President may confer the personal rank of am-  
9 bassador, to be effective for a period not exceeding six  
10 months, upon an individual who is undertaking a special mis-  
11 sion for the President if the President, before conferring such  
12 rank, transmits to the Committee on Foreign Relations of the  
13 Senate a written report of his intent to confer the personal  
14 rank of ambassador upon such individual and transmits with  
15 that report all relevant materials concerning any potential  
16 conflict of interest which the proposed recipient of such per-  
17 sonal rank may have with regard to the special mission.

18 (C) An individual upon whom a personal rank is con-  
19 ferred under subparagraph (A) or (B) shall not receive any  
20 additional compensation solely by virtue of such personal  
21 rank.

22 (b) If a member of the Service is appointed to any posi-  
23 tion in the executive branch by the President, by and with  
24 the advice and consent of the Senate, or by the President  
25 alone, the period of service in that position by the member

1 shall be regarded as an assignment under chapter 5 and the  
2 member shall not, by virtue of the acceptance of such assign-  
3 ment, lose his or her status as a member of the Service. A  
4 member of the Senior Foreign Service who accepts such an  
5 assignment may elect to continue to receive the salary of his  
6 or her salary class, to remain eligible for performance pay  
7 under chapter 4, and to receive the leave to which such  
8 member is entitled under subchapter I of chapter 63 of title  
9 5, United States Code, as a member of the Senior Foreign  
10 Service, in lieu of receiving the salary and leave (if any) of  
11 the position to which the member is appointed by the Presi-  
12 dent.

13 SEC. 303. APPOINTMENTS BY THE SECRETARY.—The  
14 Secretary may appoint the members of the Service (other  
15 than the members of the Service who are in the personnel  
16 categories specified in section 302(a)) in accordance with this  
17 Act and such regulations as the Secretary may prescribe.

18 SEC. 304. APPOINTMENT OF CHIEFS OF MISSION.—  
19 (a)(1) An individual appointed or assigned to be a chief of  
20 mission should possess clearly demonstrated competence to  
21 perform the duties of a chief of mission, including, to the  
22 maximum extent practicable, a useful knowledge of the prin-  
23 cipal language or dialect of the country in which the individu-  
24 al is to serve, and knowledge and understanding of the histo-

1 ry, the culture, the economic and political institutions, and  
2 the interests of that country and its people.

3 (2) Given the qualifications specified in paragraph (1),  
4 positions as chief of mission should normally be accorded to  
5 career members of the Service, though circumstances will  
6 warrant appointments from time to time of qualified individ-  
7 uals who are not career members of the Service.

8 (3) Contributions to political campaigns should not be a  
9 factor in the appointment of an individual as a chief of mis-  
10 sion.

11 (b)(1) In order to assist the President in selecting quali-  
12 fied candidates for appointment or assignment as chiefs of  
13 mission, the Secretary of State shall from time to time fur-  
14 nish the President with the names of career members of the  
15 Service who are qualified to serve as chiefs of mission, to-  
16 gether with pertinent information about such members.

17 (2) Each individual nominated by the President to be a  
18 chief of mission, ambassador at large, or minister shall, at the  
19 time of nomination, file with the Committee on Foreign Rela-  
20 tions of the Senate and the Speaker of the House of Repre-  
21 sentatives a report of contributions made by such individual  
22 and by members of his or her immediate family during the  
23 period beginning on the first day of the fourth calendar year  
24 preceding the calendar year of the nomination and ending on  
25 the date of the nomination. The report shall be verified by the

1 oath of the nominee, taken before any individual authorized  
2 to administer oaths. The chairman of the Committee on For-  
3 eign Relations of the Senate shall have each such report  
4 printed in the Congressional Record. As used in this para-  
5 graph, the term "contribution" has the same meaning given  
6 such term by section 301(8) of the Federal Election Cam-  
7 paign Act of 1971 (2 U.S.C. 431(8)), and the term "immedi-  
8 ate family" means the spouse of the nominee, and any child,  
9 parent, grandparent, brother, or sister of the nominee and the  
10 spouses of any of them.

11 SEC. 305. APPOINTMENT TO THE SENIOR FOREIGN  
12 SERVICE.—(a) Appointment to the Senior Foreign Service  
13 shall be to a salary class established under section 402, and  
14 not to a position.

15 (b) An individual may not be given a limited appoint-  
16 ment in the Senior Foreign Service if that appointment would  
17 cause the number of members of the Senior Foreign Service  
18 serving under limited appointments to exceed 5 percent of  
19 the total number of members of the Senior Foreign Service,  
20 except that (1) members of the Senior Foreign Service as-  
21 signed to the Peace Corps shall be excluded in the calcula-  
22 tion and application of this limitation, and (2) members of the  
23 Senior Foreign Service serving under limited appointments  
24 with reemployment rights under section 310 as career ap-  
25 pointees in the Senior Executive Service shall be considered

1 to be career members of the Senior Foreign Service for pur-  
2 poses of this subsection.

3 SEC. 306. CAREER APPOINTMENTS.—(a) Before re-  
4 ceiving a career appointment in the Service, an individual  
5 shall first serve under a limited appointment as a career can-  
6 didate for a trial period of service prescribed by the Secre-  
7 tary. During such trial period of service, the Secretary shall  
8 decide whether—

9 (1) to offer a career appointment to the candidate  
10 under section 303, or

11 (2) to recommend to the President that the candi-  
12 date be given a career appointment under section 302.

13 (b) Decisions by the Secretary under subsection (a) shall  
14 be based upon the recommendations of boards, established by  
15 the Secretary and composed entirely or primarily of career  
16 members of the Service, which shall evaluate the fitness and  
17 aptitude of career candidates for the work of the Service.

18 SEC. 307. ENTRY LEVELS FOR FOREIGN SERVICE OF-  
19 FICER CANDIDATES.—A career candidate for appointment  
20 as a Foreign Service officer may not be initially assigned  
21 under section 404 to a salary class higher than class FS-5 in  
22 the Foreign Service Schedule unless—

23 (1) the Secretary determines in an individual case  
24 that assignment to a higher salary class is warranted

1       because of the qualifications and experience of the can-  
2       didate and the needs of the Service; or

3           (2) at the time such initial assignment is made,  
4       the candidate is serving under a career appointment in  
5       the Service and is receiving a salary at a rate equal to  
6       or higher than the minimum rate payable for class  
7       FS-4 in the Foreign Service Schedule.

8       SEC. 308. RECALL AND REEMPLOYMENT OF CAREER  
9 MEMBERS.—(a) Whenever the Secretary determines that the  
10 needs of the Service so require, the Secretary may recall any  
11 retired career member of the Service for active duty in the  
12 same personnel category as that member was serving at the  
13 time of retirement. A retired career member may be recalled  
14 under this section to any appropriate salary class or rate,  
15 except that a retired career member of the Senior Foreign  
16 Service may not be recalled to a salary class higher than the  
17 one in which the member was serving at the time of retire-  
18 ment unless appointed to such higher class by the President,  
19 by and with the advice and consent of the Senate.

20       (b) Former career members of the Service may be reap-  
21 pointed under section 302(a)(1) or 303, without regard to  
22 section 306, in a salary class which is appropriate in light of  
23 the qualifications and experience of the individual being  
24 reappointed.

1        SEC. 309. LIMITED APPOINTMENTS.—A limited ap-  
2    pointment in the Service, including an appointment of an in-  
3    dividual who is an employee of an agency, may not exceed 5  
4    years in duration and, except as provided in section 311(a),  
5    may not be extended or renewed. A limited appointment in  
6    the Service which is limited by its terms to a period of one  
7    year or less is a temporary appointment.

8        SEC. 310. REEMPLOYMENT RIGHTS FOLLOWING LIM-  
9    ITED APPOINTMENT.—Any employee of an agency who ac-  
10   cepts a limited appointment in the Service with the consent  
11   of the head of the agency in which the employee is employed  
12   shall be entitled, upon the termination of such limited ap-  
13   pointment, to be reemployed in accordance with section 3597  
14   of title 5, United States Code.

15       SEC. 311. EMPLOYMENT OF FAMILY MEMBERS OF  
16   GOVERNMENT EMPLOYEES.—(a) The Secretary, when em-  
17   ploying individuals abroad in positions to which career mem-  
18   bers of the Service are not customarily assigned (including,  
19   when continuity over a long term is not a significant consid-  
20   eration, vacant positions normally filled by foreign national  
21   employees), shall give equal consideration to employing  
22   available qualified family members of members of the Service  
23   or of other Government employees assigned abroad. Family  
24   members so employed shall serve under renewable limited  
25   appointments in the Service and may be paid either in ac-



1 cordance with the Foreign Service Schedule or a local com-  
2 pensation plan established under section 407.

3 (b) Employment of family members in accordance with  
4 this section may not be used to avoid fulfilling the need for  
5 full-time career positions.

6 (c) The Secretary of State shall prescribe regulations  
7 governing the employment at Foreign Service posts abroad of  
8 family members of Government employees by all agencies  
9 and other Government establishments (including establish-  
10 ments in the legislative or judicial branch).

11 SEC. 312. DIPLOMATIC AND CONSULAR COMMIS-  
12 SIONS.—(a) The Secretary of State may recommend to the  
13 President that a member of the Service who is a citizen of  
14 the United States be commissioned as a diplomatic or consul-  
15 ar officer or both. The President may, by and with the advice  
16 and consent of the Senate, commission such member of the  
17 Service as a diplomatic or consular officer or both. The Sec-  
18 retary of State may commission as a vice consul a member of  
19 the Service who is a citizen of the United States. All official  
20 functions performed by a diplomatic or consular officer,  
21 including a vice consul, shall be performed under such a  
22 commission.

23 (b) Members of the Service commissioned under this sec-  
24 tion may, in accordance with their commissions, perform any  
25 function which any category of diplomatic officer (other than

1 a chief of mission) or consular officer is authorized by law to  
2 perform.

3 (c) The Secretary of State shall define the limits of con-  
4 sular districts.

5 CHAPTER 4—COMPENSATION

6 SEC. 401. SALARIES OF CHIEFS OF MISSION.—(a)  
7 Except as provided in section 302(b), each chief of mission  
8 shall receive a salary, as determined by the President, at one  
9 of the annual rates payable for levels II through V of the  
10 Executive Schedule under sections 5313 through 5316 of  
11 title 5, United States Code.

12 (b) The salary of a chief of mission shall commence upon  
13 the effective date of appointment to that position. The official  
14 services of a chief of mission are not terminated by the ap-  
15 pointment of a successor, but shall continue for such addition-  
16 al period, not to exceed 50 days after relinquishment of  
17 charge of the mission, as the Secretary of State may deter-  
18 mine. During that period, the Secretary of State may require  
19 the chief of mission to perform such functions as the Secre-  
20 tary of State deems necessary in the interest of the Govern-  
21 ment.

22 SEC. 402. SALARIES OF THE SENIOR FOREIGN SERV-  
23 ICE.—The President shall prescribe salary classes for the  
24 Senior Foreign Service and shall prescribe an appropriate  
25 title for each class. Basic salary rates for the Senior Foreign

1 Service may not exceed the maximum rate or be less than  
 2 the minimum rate of basic pay payable for the Senior Execu-  
 3 tive Service under section 5382 of title 5, United States  
 4 Code, and shall be adjusted at the same time and in the same  
 5 manner as rates of basic pay are adjusted for the Senior Ex-  
 6 ecutive Service.

7 SEC. 403. FOREIGN SERVICE SCHEDULE.—(a) There is  
 8 hereby established the Foreign Service Schedule, which shall  
 9 apply to the members of the Service who are citizens of the  
 10 United States and for whom salary rates are not otherwise  
 11 provided for by this chapter.

12 (b) The Foreign Service Schedule shall have 10 salary  
 13 classes, designated FS-1 through FS-10, which shall corre-  
 14 spond to grades of the General Schedule under section 5332  
 15 of title 5, United States Code, as follows:

Salary class:	Shall correspond to grade:
FS-1.....	GS-15
FS-2.....	GS-14
FS-3.....	GS-13
FS-4.....	GS-12
FS-5.....	GS-11
FS-6.....	GS-9
FS-7.....	GS-7
FS-8.....	GS-6
FS-9.....	GS-5
FS-10.....	GS-4

16 (c) Each class in the Foreign Service Schedule shall  
 17 have 14 salary steps. The first 10 salary steps in each class  
 18 shall be equal to the steps for the corresponding grade in the  
 19 General Schedule and the remaining 4 steps shall be in incre-

1 ments equal to the average increment of the first 10 steps in  
2 that class.

3 (d) Salary may not be paid under the Foreign Service  
4 Schedule at a rate in excess of the rate of basic pay for level  
5 V of the Executive Schedule under section 5316 of title 5,  
6 United States Code.

7 (e) The Secretary of State shall prescribe regulations to  
8 carry out this section.

9 SEC. 404. ASSIGNMENT TO A SALARY CLASS.—(a)  
10 The Secretary shall assign all Foreign Service officers and  
11 Foreign Service personnel (other than Foreign Service per-  
12 sonnel who are family members of Government employees  
13 paid in accordance with a local compensation plan established  
14 under section 407) to appropriate salary classes in the For-  
15 eign Service Schedule.

16 (b)(1) The salary class to which a member of the Service  
17 is assigned under this section shall not be affected by the  
18 assignment of the member to a position classified under chap-  
19 ter 5.

20 (2) Except as authorized by subchapter I of chapter 35  
21 of title 5, United States Code, changes in the salary class of  
22 a member of the Senior Foreign Service or a member of the  
23 Service assigned to a salary class in the Foreign Service  
24 Schedule shall be made only in accordance with chapter 6.  
25 The Secretary shall prescribe regulations (which shall be

1 consistent with the relevant provisions of subchapter VI of  
2 chapter 53 of title 5, United States Code, and with the regu-  
3 lations prescribed to carry out such provisions) providing for  
4 retention of pay by members of the Service in cases in which  
5 reduction-in-force procedures are applied.

6 SEC. 405. PERFORMANCE PAY.—(a) Members of the  
7 Senior Foreign Service who are serving—

8 (1) under career or career candidate appointments,

9 or

10 (2) under limited appointments with reemployment  
11 rights under section 310 as career appointees in the  
12 Senior Executive Service,

13 shall be eligible to compete for performance pay in accord-  
14 ance with this section. Performance pay shall be paid in a  
15 lump sum and shall be in addition to the basic salary pre-  
16 scribed under section 402 and any other award. The fact that  
17 a member of the Senior Foreign Service competing for per-  
18 formance pay would, as a result of the payment of such per-  
19 formance pay, receive compensation exceeding the compen-  
20 sation of any other member of the Service shall not preclude  
21 the award or its payment.

22 (b) Awards of performance pay shall take into account  
23 the criteria established by the Office of Personnel Manage-  
24 ment for performance awards under section 5384 of title 5,  
25 United States Code, and rank awards under section 4507 of

1 title 5, United States Code. Awards of performance pay  
2 under this section shall be subject to the following limita-  
3 tions:

4 (1) Not more than 50 percent of the members of  
5 the Senior Foreign Service may receive performance  
6 pay in any fiscal year.

7 (2) Except as provided in paragraph (3), perform-  
8 ance pay for a member of the Senior Foreign Service  
9 may not exceed 20 percent of the annual rate of basic  
10 salary for that member.

11 (3) Not more than 6 percent of the members of  
12 the Senior Foreign Service may receive performance  
13 pay in any fiscal year in an amount which exceeds the  
14 percentage limitation specified in paragraph (2). Pay-  
15 ments under this paragraph to a member of the Senior  
16 Foreign Service may not exceed \$10,000 in any fiscal  
17 year, except that payments of up to \$20,000 in any  
18 fiscal year may be made under this paragraph to up to  
19 1 percent of the members of the Senior Foreign Serv-  
20 ice.

21 (4) The total amount of basic salary plus perform-  
22 ance pay received in any fiscal year by any member of  
23 the Senior Foreign Service may not exceed the salary  
24 payable for level I of the Executive Schedule under

1 section 5312 of title 5, United States Code, as in effect  
2 at the end of that fiscal year.

3 (c) The Secretary shall determine the amount of per-  
4 formance pay available under subsection (b)(2) each year for  
5 distribution among the members of the Senior Foreign Serv-  
6 ice and shall distribute performance pay to particular individ-  
7 uals on the basis of recommendations by selection boards es-  
8 tablished under section 602.

9 (d) The President may grant awards of performance pay  
10 under subsection (b)(3) on the basis of annual recommenda-  
11 tions by the Secretary of State of members of the Senior  
12 Foreign Service who are nominated by their agencies as  
13 having performed especially meritorious or distinguished  
14 service. Recommendations by the Secretary of State under  
15 this subsection shall be made on the basis of recommenda-  
16 tions by special interagency selection boards established by  
17 the Secretary of State for the purpose of reviewing and eval-  
18 uating the nominations of agencies.

19 SEC. 406. WITHIN-CLASS SALARY INCREASES.—(a)  
20 Any member of the Service receiving a salary under the For-  
21 eign Service Schedule shall be advanced to the next higher  
22 salary step in the member's class at the beginning of the first  
23 applicable pay period following the completion by that  
24 member of a period of—

1           (1) 52 calendar weeks of service in each of salary  
2       steps 1 through 9, and

3           (2) 104 calendar weeks of service in each of  
4       salary steps 10 through 13,

5       unless the performance of the member during that period is  
6       found in a review by a selection board established under sec-  
7       tion 602 to fall below the standards of performance for his or  
8       her salary class.

9       (b) The Secretary may grant, on the basis of especially  
10      meritorious service, to any member of the Service receiving  
11      an increase in salary under subsection (a), an additional  
12      salary increase to any higher step in the salary class in which  
13      the member is serving.

14      SEC. 407. LOCAL COMPENSATION PLANS.—(a)(1) The  
15      Secretary shall establish compensation plans for foreign na-  
16      tional employees of the Service, and for United States citi-  
17      zens employed in the Service abroad who are family mem-  
18      bers of Government employees. To the extent consistent with  
19      the public interest, each compensation plan shall be based  
20      upon prevailing wage rates and compensation practices (in-  
21      cluding participation in local social security plans) for corre-  
22      sponding types of positions in the locality of employment,  
23      except that such compensation plans shall provide for pay-  
24      ment of wages to those family members of Government em-  
25      ployees who are paid in accordance with such plans at a rate



1 which is no less than the then applicable minimum wage rate  
2 specified in section 6(a)(1) of the Fair Labor Standards Act of  
3 1938 (29 U.S.C. 206(a)(1)). Any compensation plan estab-  
4 lished under this section may include provision for leaves of  
5 absence with pay for foreign national employees in accord-  
6 ance with prevailing law and employment practices in the  
7 locality of employment without regard to any limitation con-  
8 tained in section 6310 of title 5, United States Code.

9 (2) The Secretary may make supplemental payments to  
10 any civil service annuitant who is a former foreign national  
11 employee of the Service (or who is receiving an annuity as a  
12 survivor of a former foreign national employee of the Service)  
13 in order to offset exchange rate losses, if the annuity being  
14 paid such annuitant is based on—

15 (A) a salary that was fixed in a foreign currency  
16 that has appreciated in value in terms of the United  
17 States dollar; and

18 (B) service in a country in which (as determined  
19 by the Secretary) the average retirement benefits being  
20 received by individuals who retired from competitive  
21 local organizations are superior to the local currency  
22 value of civil service annuities plus any other retire-  
23 ment benefits payable to foreign national employees  
24 who retired during similar time periods and after com-  
25 parable careers with the Government.

1       (b) For the purpose of performing functions abroad, any  
2 agency or other Government establishment (including any es-  
3 tablishment in the legislative or judicial branch) may adminis-  
4 ter employment programs for its employees who are foreign  
5 nationals or are family members of Government employees  
6 assigned abroad, in accordance with the applicable provisions  
7 of this Act.

8       (c) The Secretary of State may prescribe regulations  
9 governing the establishment and administration of local com-  
10 pensation plans under this section by all agencies and other  
11 Government establishments.

12       SEC. 408. SALARIES OF CONSULAR AGENTS.—The  
13 Secretary of State shall establish the salary rate for each  
14 consular agent. Such salary rate shall be established after  
15 taking into account the workload of the consular agency and  
16 the prevailing wage rates in the locality where the agency is  
17 located, except that, in the case of a consular agent who is a  
18 citizen of the United States, the salary rate may not be less  
19 than the then applicable minimum wage rate specified in sec-  
20 tion 6(a)(1) of the Fair Labor Standards Act of 1938 (29  
21 U.S.C. 206(a)(1)).

22       SEC. 409. COMPENSATION FOR IMPRISONED FOREIGN  
23 NATIONAL EMPLOYEES.—(a) The head of any agency or  
24 other Government establishment (including any in the legisla-  
25 tive or judicial branch) may compensate any current or

1 former foreign national employee, or any foreign national  
2 who is or was employed under a personal services contract,  
3 who is or has been imprisoned by a foreign government if the  
4 Secretary of State (or, in the case of a foreign national em-  
5 ployed by the Central Intelligence Agency, the Director of  
6 Central Intelligence) determines that such imprisonment is  
7 the result of the employment of the foreign national by the  
8 United States. Such compensation may not exceed the  
9 amount that the agency head determines approximates the  
10 salary and other benefits to which the foreign national would  
11 have been entitled had he or she been employed during the  
12 period of such imprisonment. Such compensation may be paid  
13 under such terms and conditions as the Secretary of State  
14 deems appropriate. For purposes of this section, an agency  
15 head shall have the same powers with respect to imprisoned  
16 foreign nationals who are or were employed by the agency as  
17 an agency head has under subchapter VII of chapter 55 of  
18 title 5, United States Code, to the extent that such powers  
19 are consistent with this section.

20 (b) Any period of imprisonment of a current or former  
21 foreign national employee which is compensable under this  
22 section shall be considered for purposes of any other em-  
23 ployee benefit to be a period of employment by the Govern-  
24 ment, except that a period of imprisonment shall not be cred-  
25 itable—

1           (1) for purposes of subchapter III of chapter 83 of  
2           title 5, United States Code, unless it is expressly cred-  
3           itable under that subchapter; or

4           (2) for purposes of subchapter I of chapter 81 of  
5           title 5, United States Code, unless the individual was  
6           employed by the Government at the time of his or her  
7           imprisonment.

8           (c) No compensation or other benefit shall be awarded  
9           under this section unless a claim therefor is filed within 3  
10          years after—

11          (1) the termination of the period of imprisonment  
12          giving rise to the claim, or

13          (2) the date of the claimant's first opportunity  
14          thereafter to file such a claim, as determined by the  
15          appropriate agency head.

16          (d) The Secretary of State may prescribe regulations  
17          governing payments under this section by all agencies and  
18          other Government establishments.

19          SEC. 410. TEMPORARY SERVICE AS PRINCIPAL OFFI-  
20          CER.—For such time (in excess of such minimum period as  
21          the Secretary of State may establish) as any member of the  
22          Service is temporarily in charge of a Foreign Service post  
23          during the absence or incapacity of the principal officer, that  
24          member shall receive, in addition to the basic salary paid to  
25          the member, an amount equal to that portion (which the Sec-

1 retary of State may determine to be appropriate) of the differ-  
2 ence between such salary and the basic salary provided for  
3 the principal officer, or, if there is no principal officer, for the  
4 former principal officer.

5 SEC. 411. SPECIAL DIFFERENTIALS AND PREMIUM  
6 PAY.—(a) The Secretary may pay special differentials, in ad-  
7 dition to compensation otherwise authorized, to Foreign  
8 Service officers who are required because of the nature of  
9 their assignments to perform additional work on a regular  
10 basis in substantial excess of normal requirements. A special  
11 differential may not be paid under this subsection with re-  
12 spect to work which is the basis for premium pay under sub-  
13 section (b).

14 (b) Members of the Service (other than members of the  
15 Senior Foreign Service) shall be entitled to receive premium  
16 pay to the extent provided under subchapter V of chapter 55  
17 of title 5, United States Code.

18 SEC. 412. DEATH GRATUITY.—(a) The Secretary may  
19 provide for payment of a gratuity to the surviving dependents  
20 of any Foreign Service employee, who dies as a result of  
21 injuries sustained in the performance of duty abroad, in an  
22 amount equal to one year's salary at the time of death. Any  
23 death gratuity payment made under this section shall be held  
24 to have been a gift and shall be in addition to any other  
25 benefit payable from any source.

1 (b) A death gratuity payment shall be made under this  
2 section only if the survivor entitled to payment under subsec-  
3 tion (c) is entitled to elect monthly compensation under sec-  
4 tion 8133 of title 5, United States Code, because the death  
5 resulted from an injury (excluding a disease proximately  
6 caused by the employment) sustained in the performance of  
7 duty, without regard to whether such survivor elects to  
8 waive compensation under such section 8133.

9 (c) A death gratuity payment under this section shall be  
10 made as follows:

11 (1) First, to the widow or widower.

12 (2) Second, to the child, or children in equal  
13 shares, if there is no widow or widower.

14 (3) Third, to the dependent parent, or dependent  
15 parents in equal shares, if there is no widow, widower,  
16 or child.

17 If there is no survivor entitled to payment under this subsec-  
18 tion, no payment shall be made.

19 (d) As used in this section—

20 (1) the term "Foreign Service employee" means  
21 any member of the Service or United States repre-  
22 sentative to an international organization or commis-  
23 sion; and

24 (2) each of the terms "widow", "widower",  
25 "child", and "parent" shall have the same meaning

1       given each such term by section 8101 of title 5, United  
2       States Code.

3       CHAPTER 5—CLASSIFICATION OF POSITIONS AND  
4                                   ASSIGNMENTS

5       SEC. 501. CLASSIFICATION OF POSITIONS.—The Sec-  
6       retary shall designate and classify positions in the Depart-  
7       ment and at Foreign Service posts which are to be occupied  
8       by members of the Service (other than by chiefs of mission  
9       and ambassadors at large). Positions designated under this  
10      section are excepted from the competitive service. Position  
11      classifications under this section shall be established, without  
12      regard to chapter 51 of title 5, United States Code, in rela-  
13      tion to the salaries established under chapter 4. In classifying  
14      positions at Foreign Service posts abroad, the Secretary shall  
15      give appropriate weight to job factors relating to service  
16      abroad and to the compensation practices applicable to  
17      United States citizens employed abroad by United States cor-  
18      porations.

19      SEC. 502. ASSIGNMENTS TO FOREIGN SERVICE POSI-  
20      TIONS.—(a)(1) The Secretary (with the concurrence of the  
21      agency concerned) may assign a member of the Service to  
22      any position classified under section 501 in which that  
23      member is eligible to serve (other than as chief of mission or  
24      ambassador at large), and may assign a member from one

1 such position to another such position as the needs of the  
2 Service may require.

3 (2) In making assignments under paragraph (1), the  
4 Secretary shall assure that a member of the Service is not  
5 assigned to a position at a post in a particular geographic  
6 area exclusively on the basis of the race, ethnicity, or religion  
7 of that member.

8 (b) Positions designated as Foreign Service positions  
9 normally shall be filled by the assignment of members of the  
10 Service to those positions. Subject to that limitation—

11 (1) Foreign Service positions may be filled by the  
12 assignment for specified tours of duty of employees of  
13 the Department and, under interagency agreements,  
14 employees of other agencies; and

15 (2) Senior Foreign Service positions may also be  
16 filled by other members of the Service.

17 (c) The President may assign a career member of the  
18 Service to serve as charge d'affaires or otherwise as the head  
19 of a mission (or as the head of a United States office abroad  
20 which is designated under section 102(a)(3) by the Secretary  
21 of State as diplomatic in nature) for such period as the public  
22 interest may require.

23 SEC. 503. ASSIGNMENTS TO AGENCIES, INTERNA-  
24 TIONAL ORGANIZATIONS, AND OTHER BODIES.—(a) The  
25 Secretary may (with the concurrence of the agency, organi-



1 zation, or other body concerned) assign a member of the  
2 Service for duty—

3 (1) in a non-Foreign Service (including Senior Ex-  
4 ecutive Service) position in the Department or another  
5 agency, or with an international organization, interna-  
6 tional commission, or other international body;

7 (2) with a domestic or international trade, labor,  
8 agricultural, scientific, or other conference, congress,  
9 or gathering;

10 (3) for special instruction, training, or orientation  
11 at or with a public or private organization; and

12 (4) in the United States (or in any territory or  
13 possession of the United States or in the Common-  
14 wealth of Puerto Rico), with a State or local govern-  
15 ment, a public or private nonprofit organization (includ-  
16 ing an educational institution), or a Member or office of  
17 the Congress.

18 (b)(1) The salary of a member of the Service assigned  
19 under this section shall be the higher of the salary which that  
20 member would receive but for the assignment under this sec-  
21 tion or the salary of the position to which that member is  
22 assigned.

23 (2) The salary of a member of the Service assigned  
24 under this section shall be paid from appropriations made  
25 available for the payment of salaries and expenses of the

1 Service. Such appropriations may be reimbursed for all or  
2 any part of the costs of salaries and other benefits for mem-  
3 bers assigned under this section.

4 (3) A member of the Service assigned under subsection  
5 (a)(4) to a Member or office of the Congress shall be deemed  
6 to be an employee of the House of Representatives or the  
7 Senate, as the case may be, for purposes of payment of travel  
8 and other expenses.

9 (c) Assignments under this section may not exceed four  
10 years of continuous service for any member of the Service  
11 unless the Secretary approves an extension of such period for  
12 that member because of special circumstances.

13 SEC. 504. SERVICE IN THE UNITED STATES AND  
14 ABROAD.—(a) Career members of the Service shall be obli-  
15 gated to serve abroad and shall be expected to serve abroad  
16 for substantial portions of their careers. The Secretary shall  
17 establish by regulation limitations upon assignments of mem-  
18 bers of the Service within the United States. A member of  
19 the Service may not be assigned to duty within the United  
20 States for any period of continuous service exceeding eight  
21 years unless the Secretary approves an extension of such  
22 period for that member because of special circumstances.

23 (b) Consistent with the needs of the Service, the Secre-  
24 tary shall seek to assign each career member of the Service  
25 who is a citizen of the United States to duty within the

1 United States at least once during each period of fifteen  
2 years that the member is in the Service.

3 (c) The Secretary may grant a sabbatical to a career  
4 member of the Senior Foreign Service for not to exceed  
5 eleven months in order to permit the member to engage in  
6 study or uncompensated work experience which will contrib-  
7 ute to the development and effectiveness of the member. A  
8 sabbatical may be granted under this subsection under condi-  
9 tions specified by the Secretary in light of the provisions of  
10 section 3396(c) of title 5, United States Code, which apply to  
11 sabbaticals granted to members of the Senior Executive  
12 Service.

13 SEC. 505. TEMPORARY DETAILS.—A period of duty of  
14 not more than six months in duration by a member of the  
15 Service shall be considered a temporary detail and shall not  
16 be considered an assignment within the meaning of this chap-  
17 ter.

## 18 CHAPTER 6—PROMOTION AND RETENTION

19 SEC. 601. PROMOTIONS.—(a) Career members of the  
20 Senior Foreign Service are promoted by appointment under  
21 section 302(a) to a higher salary class in the Senior Foreign  
22 Service. Members of the Senior Foreign Service serving  
23 under career candidate appointments or noncareer appoint-  
24 ments are promoted by appointment under section 303 to a  
25 higher salary class in the Senior Foreign Service. Foreign

1 Service officers, and Foreign Service personnel who are as-  
2 signed to a class in the Foreign Service Schedule, are pro-  
3 moted by appointment under section 302(a) as career mem-  
4 bers of the Senior Foreign Service or by assignment under  
5 section 404 to a higher salary class in the Foreign Service  
6 Schedule.

7 (b) Except as provided in section 606(a), promotions  
8 of—

9 (1) members of the Senior Foreign Service, and

10 (2) members of the Service assigned to a salary  
11 class in the Foreign Service Schedule (including pro-  
12 motions of such members into the Senior Foreign Serv-  
13 ice),

14 shall be based upon the recommendations and rankings of  
15 selection boards established under section 602, except that  
16 the Secretary may by regulation specify categories of career  
17 members, and categories of career candidates, assigned to  
18 salary classes in the Foreign Service Schedule who may re-  
19 ceive promotions on the basis of satisfactory performance.

20 (c)(1) Promotions into the Senior Foreign Service shall  
21 be recommended by selection boards only from among career  
22 members of the Service assigned to class FS-1 in the For-  
23 eign Service Schedule who request that they be considered  
24 for promotion into the Senior Foreign Service. The Secretary  
25 shall prescribe the length of the period after such a request is

1 made (within any applicable time in class limitation estab-  
2 lished under section 607(a)) during which such members may  
3 be considered by selection boards for entry into the Senior  
4 Foreign Service. A request by a member for consideration for  
5 promotion into the Senior Foreign Service under this subsec-  
6 tion may be withdrawn by the member, but if it is withdrawn,  
7 that member may not thereafter request consideration for  
8 promotion into the Senior Foreign Service.

9 (2) Decisions by the Secretary on the numbers of indi-  
10 viduals to be promoted into and retained in the Senior For-  
11 eign Service shall be based upon a systematic long-term pro-  
12 jection of personnel flows and needs designed to provide—

13 (A) a regular, predictable flow of recruitment in  
14 the Service;

15 (B) effective career development patterns to meet  
16 the needs of the Service; and

17 (C) regular, predictable flow of talent upward  
18 through the ranks and into the Senior Foreign Service.

19 (3) The affidavit requirements of sections 3332 and  
20 3333(a) of title 5, United States Code, shall not apply with  
21 respect to a member of the Service who has previously com-  
22 plied with those requirements and who subsequently is pro-  
23 moted by appointment to any class in the Senior Foreign  
24 Service without a break in service.

1        SEC. 602. SELECTION BOARDS.—(a) The Secretary  
2 shall establish selection boards to evaluate the performance  
3 of members of the Senior Foreign Service and members of  
4 the Service assigned to a salary class in the Foreign Service  
5 Schedule. Selection boards shall, in accordance with precepts  
6 prescribed by the Secretary, rank the members of a salary  
7 class on the basis of relative performance and may make rec-  
8 ommendations for—

9            (1) promotions in accordance with section 601;

10           (2) awards of performance pay under section  
11        405(c);

12           (3) denials of within class step increases under  
13        section 406(a);

14           (4) offer or renewal of limited career extensions  
15        under section 607(b); and

16           (5) such other actions as the Secretary may pre-  
17        scribe by regulation.

18        (b) All selection boards established under this section  
19 shall include public members. The Secretary shall assure that  
20 a substantial number of women and members of minority  
21 groups are appointed to each selection board established  
22 under this section.

23        SEC. 603. BASIS FOR SELECTION BOARD REVIEW.—

24        (a) Recommendations and rankings by selection boards shall  
25 be based upon records of the character, ability, conduct, qual-

1 ity of work, industry, experience, dependability, usefulness,  
2 and general performance of members of the Service. Such  
3 records may include reports prepared by or on behalf of the  
4 Inspector General of the Foreign Service, performance eval-  
5 uation reports of supervisors, records of commendations,  
6 awards, reprimands, and other disciplinary actions, and (with  
7 respect to members of the Senior Foreign Service) records of  
8 current and prospective assignments.

9 (b) Precepts for selection boards shall include a descrip-  
10 tion of the needs of the Service for performance require-  
11 ments, skills, and qualities, which are to be considered in  
12 recommendations for promotion. The precepts for selection  
13 boards responsible for recommending promotions into and  
14 within the Senior Foreign Service shall emphasize perform-  
15 ance which demonstrates the strong policy formulation capa-  
16 bilities, executive leadership qualities, and highly developed  
17 functional and area expertise, which are required for the  
18 Senior Foreign Service.

19 SEC. 604. CONFIDENTIALITY OF RECORDS.—The rec-  
20 ords described in section 603(a) shall be maintained in ac-  
21 cordance with regulations prescribed by the Secretary.  
22 Except to the extent that they pertain to the receipt, dis-  
23 bursement, and accounting for public funds, such records  
24 shall be confidential and subject to inspection only by the  
25 President, the Secretary, such employees of the Government

1 as may be authorized by law or assigned by the Secretary to  
2 work on such records, the legislative and appropriations com-  
3 mittees of the Congress charged with considering legislation  
4 and appropriations for the Service, and representatives duly  
5 authorized by such committees. Access to such records relat-  
6 ing to a member of the Service shall be granted to such  
7 member, upon written request.

8       SEC. 605. IMPLEMENTATION OF SELECTION BOARD  
9 RECOMMENDATIONS.—(a) Recommendations for promotion  
10 made by selection boards shall be submitted to the Secretary  
11 in rank order by salary class or in rank order by specializa-  
12 tion within a salary class. The Secretary shall make promo-  
13 tions and, with respect to career appointments into or within  
14 the Senior Foreign Service, shall make recommendations to  
15 the President for promotions, in accordance with the rankings  
16 of the selection boards.

17       (b) Notwithstanding subsection (a), in special circum-  
18 stances set forth by regulation, the Secretary may remove  
19 the name of an individual from the rank order list submitted  
20 by a selection board or delay the promotion of an individual  
21 named in such a list.

22       SEC. 606. OTHER BASES FOR INCREASING PAY.—(a)  
23 The Secretary may pursuant to a recommendation of the  
24 Foreign Service Grievance Board, an equal employment op-  
25 portunity appeals examiner, or the Special Counsel of the



1 Merit Systems Protection Board, and shall pursuant to a de-  
2 cision or order of the Merit Systems Protection Board—

3 (1) recommend to the President a promotion of a  
4 member of the Service under section 302(a);

5 (2) promote a member of the Service under sec-  
6 tion 303;

7 (3) grant performance pay to a member of the  
8 Senior Foreign Service under section 405(c); or

9 (4) grant a within-class salary increase under sec-  
10 tion 406 to a member of the Service who is assigned  
11 to a salary class in the Foreign Service Schedule.

12 (b) In implementing subsection (a) of this section and in  
13 cases in which the Secretary has exercised the authority of  
14 section 605(b), the Secretary may, in special circumstances  
15 set forth by regulation, make retroactive promotions, grant  
16 performance pay, make retroactive within-class salary in-  
17 creases, and recommend retroactive promotions by the Presi-  
18 dent.

19 SEC. 607. RETIREMENT FOR EXPIRATION OF TIME IN  
20 CLASS.—(a)(1) The Secretary shall, by regulation, establish  
21 maximum time in class limitations for—

22 (A) career members of the Senior Foreign Serv-  
23 ice,

24 (B) Foreign Service officers, and

1 (C) other career members of the Service who are  
2 in such occupational categories as may be designated  
3 by the Secretary and who are assigned to salary  
4 classes in the Foreign Service Schedule to which For-  
5 eign Service officers may also be assigned.

6 (2) Maximum time in class limitations under this subsec-  
7 tion (which may not be less than 3 years for career members  
8 of the Senior Foreign Service) may apply with respect to the  
9 time a member may remain in a single salary class or in a  
10 combination of salary classes.

11 (3) The Secretary may, by regulation, increase or de-  
12 crease any maximum time in class established under this sub-  
13 section as the needs of the Service may require. If maximum  
14 time in class is decreased, the Secretary shall provide any  
15 member of the Service who is in a category and salary class  
16 subject to the new time in class limitation an opportunity to  
17 remain in class (notwithstanding the new limitation) for a  
18 period which is at least as long as the shorter of—

19 (A) the period which the member would have  
20 been permitted to remain in class but for the decrease  
21 in maximum time in class, or

22 (B) such minimum period as the Secretary deter-  
23 mines is necessary to provide members of the Service  
24 who are in the same category and salary class as that  
25 member a reasonable opportunity to be promoted into

1 the next higher class or combination of classes, as the  
2 case may be.

3 (b) Members of the Service whose maximum time in  
4 class under subsection (a) expires—

5 (1) after they have attained the highest salary  
6 class for their respective occupational categories, or

7 (2) in the case of members of the Senior Foreign  
8 Service, while they are in salary classes designated by  
9 the Secretary,

10 may continue to serve only under limited extensions of their  
11 career appointments. Such limited extensions may not exceed  
12 5 years in duration and may be granted and renewed by the  
13 Secretary in light of the recommendations of selection boards  
14 established under section 602 and the needs of the Service.  
15 Members of the Service serving under such limited career  
16 extensions shall continue to be career members of the  
17 Service.

18 (c) Any member of the Service—

19 (1) whose maximum time in class under subsec-  
20 tion (a) expires and who is not promoted to a higher  
21 class or combination of classes, as the case may be, or

22 (2) whose limited career extension under subsec-  
23 tion (b) expires and is not renewed,

24 shall be retired from the Service and receive benefits in ac-  
25 cordance with section 609.

1       SEC. 608. RETIREMENT BASED ON RELATIVE PER-  
2 FORMANCE.—(a) The Secretary shall prescribe regulations  
3 concerning the standards of performance to be met by career  
4 members of the Service who are citizens of the United  
5 States. Whenever a selection board review indicates that the  
6 performance of such a career member of the Service may not  
7 meet the standards of performance for his or her class, the  
8 Secretary shall provide for administrative review of the per-  
9 formance of the member. The review shall include an oppor-  
10 tunity for the member to be heard.

11       (b) In any case where the administrative review con-  
12 ducted under subsection (a) substantiates that a career  
13 member of the Service has failed to meet the standards of  
14 performance for his or her class, the member shall be retired  
15 from the Service and receive benefits in accordance with sec-  
16 tion 609.

17       SEC. 609. RETIREMENT BENEFITS.—(a) A member of  
18 the Service—

19               (1) who is retired under section 607(c)(2); or

20               (2) who is retired under section 607(c)(1) or

21       608(b)—

22               (A) after becoming eligible for voluntary re-

23       tirement under section 811, or

65

1 (B) from the Senior Foreign Service or while  
2 assigned to class FS-1 in the Foreign Service  
3 Schedule,  
4 shall receive retirement benefits in accordance with section  
5 806.

6 (b) Any member of the Service (other than a member to  
7 whom subsection (a) applies) who is retired under section  
8 607(c)(1) or 608(b) shall receive—

9 (1) one-twelfth of a year's salary at his or her  
10 then current salary rate for each year of service and  
11 proportionately for a fraction of a year, but not exceed-  
12 ing a total of one year's salary at his or her then cur-  
13 rent salary rate, payable without interest from the For-  
14 eign Service Retirement and Disability Fund in 3 equal  
15 installments, such installments to be paid on January 1  
16 of each of the first 3 calendar years beginning after the  
17 retirement of the member (except that in special cases,  
18 the Secretary of State may accelerate or combine such  
19 installments); and

20 (2) a refund as provided in section 815 of the con-  
21 tributions made by the member to the Foreign Service  
22 Retirement and Disability Fund, except that in lieu of  
23 such refund a member who has at least 5 years of  
24 service credit toward retirement under the Foreign  
25 Service Retirement and Disability System (excluding

1 military and naval service) may elect to receive an an-  
2 nuity, computed under section 806, commencing at age  
3 60.

4 In the event that a member of the Service has elected to  
5 receive retirement benefits under paragraph (2) and dies  
6 before reaching age 60, his or her death shall be considered a  
7 death in service within the meaning of section 809.

8 SEC. 610. SEPARATION FOR CAUSE.—(a)(1) The Sec-  
9 retary may separate any member from the Service for such  
10 cause as will promote the efficiency of the Service.

11 (2) A member of the Service who is a member of the  
12 Senior Foreign Service or is assigned to a salary class in the  
13 Foreign Service Schedule and who either (A) is serving under  
14 a career appointment, or (B) if separation is to be by reason  
15 of misconduct, is serving under a limited appointment, shall  
16 not be separated from the Service under this section until the  
17 member has been granted a hearing before the Foreign Serv-  
18 ice Grievance Board and the cause for separation established  
19 at such hearing, unless the member waives in writing the  
20 right to a hearing. The hearing provided under this para-  
21 graph shall be in accordance with the hearing procedures ap-  
22 plicable to grievances under section 1106 and shall be in lieu  
23 of any other administrative procedure authorized or required  
24 by this or any other law.

1 (b) Any participant in the Foreign Service Retirement  
2 and Disability System who is separated under subsection (a)  
3 shall be entitled to receive a refund as provided in section  
4 815 of the contributions made by the participant to the For-  
5 eign Service Retirement and Disability Fund. Except in  
6 cases where the Secretary determines that separation was  
7 based in whole or in part on the ground of disloyalty to the  
8 United States, a participant who has at least 5 years of serv-  
9 ice credit toward retirement under the Foreign Service Re-  
10 tirement and Disability System (excluding military and naval  
11 service) may elect, in lieu of such refund, to receive retire-  
12 ment benefits on reaching age 60 in accordance with section  
13 806.

14 SEC. 611. TERMINATION OF LIMITED APPOINT-  
15 MENTS.—Except as provided in section 610(a)(2), the Secre-  
16 tary may terminate at any time the appointment of any  
17 member of the Service serving under a limited appointment  
18 who is in the Senior Foreign Service, who is assigned to a  
19 salary class in the Foreign Service Schedule, or who is a  
20 family member of a Government employee serving under a  
21 local compensation plan established under section 407.

22 SEC. 612. TERMINATION OF APPOINTMENTS OF CON-  
23 SULAR AGENTS AND FOREIGN NATIONAL EMPLOYEES.—  
24 (a) The Secretary of State may terminate at any time the  
25 appointment of any consular agent in light of the criteria and

1 procedures normally followed in the locality in similar cir-  
2 cumstances.

3 (b) The Secretary may terminate at any time the ap-  
4 pointment of any foreign national employee in light of the  
5 criteria and procedures normally followed in the locality in  
6 similar circumstances.

7 CHAPTER 7—FOREIGN SERVICE INSTITUTE, CAREER  
8 DEVELOPMENT, TRAINING, AND ORIENTATION

9 SEC. 701. FOREIGN SERVICE INSTITUTE.—(a) The  
10 Secretary of State shall maintain and operate the Foreign  
11 Service Institute (hereinafter in this chapter referred to as  
12 the "Institute"), originally established under section 701 of  
13 the Foreign Service Act of 1946, in order to promote career  
14 development within the Service and to provide necessary  
15 training and instruction in the field of foreign relations to  
16 members of the Service and to employees of the Department  
17 and of other agencies. The Institute shall be headed by a  
18 Director, who shall be appointed by the Secretary of State.

19 (b) To the extent practicable, the Secretary of State  
20 shall provide training under this chapter which meets the  
21 needs of all agencies, and other agencies shall avoid duplicat-  
22 ing the facilities and training provided by the Secretary of  
23 State through the Institute and otherwise.

24 SEC. 702. FOREIGN LANGUAGE REQUIREMENTS.—(a)  
25 The Secretary shall establish foreign language proficiency re-



1   quirements for members of the Service who are to be as-  
2   signed abroad in order that Foreign Service posts abroad will  
3   be staffed by individuals having a useful knowledge of the  
4   language or dialect common to the country in which the post  
5   is located.

6       (b) The Secretary of State shall arrange for appropriate  
7   language training of members of the Service by the Institute  
8   or otherwise in order to assist in meeting the requirements  
9   established under subsection (a).

10       SEC. 703. TRAINING AUTHORITIES.—(a) In the exer-  
11   cise of functions under this chapter, the Secretary of State  
12   may—

13           (1) provide for the general nature of the training  
14       and instruction to be furnished by the Institute, includ-  
15       ing functional and geographic area specializations;

16           (2) correlate training and instruction furnished by  
17       the Institute with courses given at other Government  
18       institutions and at private institutions which furnish  
19       training and instruction useful in the field of foreign af-  
20       fairs;

21           (3) encourage and foster programs complementary  
22       to those furnished by the Institute, including through  
23       grants and other gratuitous assistance to nonprofit in-  
24       stitutions cooperating in any of the programs under  
25       this chapter;

1           (4)(A) employ in accordance with the civil service  
2           laws such personnel as may be necessary to carry out  
3           the provisions of this chapter, and

4           (B) if and to the extent determined to be neces-  
5           sary by the Secretary of State, obtain without regard  
6           to the provisions of law governing appointments in the  
7           competitive service, by appointment or contract (sub-  
8           ject to the availability of appropriations), the services  
9           of individuals to serve as language instructors, lin-  
10          guists, and other academic and training specialists (in-  
11          cluding, in the absence of suitably qualified United  
12          States citizens, qualified individuals who are not citi-  
13          zens of the United States); and

14          (5) acquire such real and personal property and  
15          equipment as may be necessary for the establishment,  
16          maintenance, and operation of the facilities necessary  
17          to carry out the provisions of this chapter without  
18          regard to section 3709 of the Revised Statutes of the  
19          United States (41 U.S.C. 5) and section 302 of the  
20          Federal Property and Administrative Services Act of  
21          1949 (41 U.S.C. 252).

22          (b) In furtherance of the objectives of this Act, the Sec-  
23          retary may—

24               (1) pay the tuition and other expenses of members  
25               of the Service and employees of the Department who

1 are assigned or detailed in accordance with law for  
2 special instruction or training, including orientation,  
3 language, and career development training;

4 (2) pay the salary (excluding premium pay or any  
5 special differential under section 411) of members of  
6 the Service selected and assigned for training; and

7 (3) provide special monetary or other incentives to  
8 encourage members of the Service to acquire or retain  
9 proficiency in foreign languages or special abilities  
10 needed in the Service.

11 (c) In the implementation of this chapter, the Secretary  
12 shall seek to design training programs which will encourage  
13 and foster career development for the various categories of  
14 members of the Service.

15 (d) The Secretary may provide to family members of  
16 members of the Service or of employees of the Department or  
17 other agencies, in anticipation of their assignment abroad or  
18 while abroad—

19 (1) appropriate orientation and language training;  
20 and

21 (2) functional training for anticipated prospective  
22 employment under section 311.

23 SEC. 704. TRAINING GRANTS.—(a) To facilitate train-  
24 ing provided to members of families of Government employ-  
25 ees under this chapter, the Secretary may make grants (by

1 advance payment or by reimbursement) to family members  
2 attending approved programs of study. No such grant may  
3 exceed the amount actually expended for necessary costs in-  
4 curred in conjunction with such attendance.

5 (b) If a member of the Service who is assigned abroad,  
6 or a member of his or her family, is unable to participate in  
7 language training furnished by the Government through the  
8 Institute or otherwise, the Secretary may compensate that  
9 individual for all or part of the costs of language training,  
10 related to the assignment abroad, which is undertaken at a  
11 public or private institution.

12 SEC. 705. CAREER COUNSELING.—(a) In order to fa-  
13 cilitate their transition from the Service, the Secretary may  
14 provide (by contract or otherwise, subject to the availability  
15 of appropriations) professional career counseling, advice, and  
16 placement assistance to members of the Service, and to  
17 former members of the Service who were assigned to receive  
18 counseling and assistance under this subsection before they  
19 were separated from the Service, other than those separated  
20 for cause.

21 (b)(1) The Secretary may facilitate the employment of  
22 spouses of members of the Service by—

23 (A) providing regular career counseling for such  
24 spouses;

1 (B) maintaining a centralized system for catalog-  
2 ing their skills and the various governmental and non-  
3 governmental employment opportunities available to  
4 them abroad; and

5 (C) otherwise assisting them in obtaining employ-  
6 ment abroad.

7 (2) The Secretary shall establish a family liaison office  
8 to carry out this subsection and such other functions as the  
9 Secretary may determine.

10 CHAPTER 8—FOREIGN SERVICE RETIREMENT AND  
11 DISABILITY SYSTEM

12 SEC. 801. ADMINISTRATION OF THE SYSTEM.—In ac-  
13 cordance with such regulations as the President may pre-  
14 scribe, the Secretary of State shall administer the Foreign  
15 Service Retirement and Disability System (hereinafter in this  
16 chapter referred to as the "System"), originally established  
17 pursuant to section 18 of the Act of May 24, 1924 (43 Stat.  
18 144).

19 SEC. 802. MAINTENANCE OF THE FUND.—The Secre-  
20 tary of the Treasury shall maintain the special fund known as  
21 the Foreign Service Retirement and Disability Fund (herein-  
22 after in this chapter referred to as the "Fund"), originally  
23 created by section 18 of the Act of May 24, 1924 (43 Stat.  
24 144).

1        SEC. 803. PARTICIPANTS.—(a) The following members  
2 of the Service (hereinafter in this chapter referred to as “par-  
3 ticipants”) shall be entitled to the benefits of the System:

4            (1) Every member serving under a career appoint-  
5 ment or as a career candidate under section 306—

6            (A) in the Senior Foreign Service, or

7            (B) who is assigned to a salary class in the  
8 Foreign Service Schedule.

9            (2) Every chief of mission, who is not a partici-  
10 pant under paragraph (1), who—

11            (A) has served as chief of mission for an ag-  
12 gregate period of 20 years or more, and

13            (B) has paid into the Fund a special contri-  
14 bution for each year of such service in accordance  
15 with section 805.

16        (b) Any otherwise eligible member of the Service who is  
17 appointed to a position in the executive branch by the Presi-  
18 dent, by and with the advice and consent of the Senate, or by  
19 the President alone, shall not by virtue of the acceptance of  
20 such appointment cease to be eligible to participate in the  
21 System.

22        SEC. 804. DEFINITIONS.—As used in this chapter,  
23 unless otherwise specified, the term—

24            (1) “annuitant” means any individual, including a  
25 former participant or survivor, who meets all require-

1       ments for an annuity from the Fund under this or any  
2       other Act and who has filed a claim for such annuity;

3           (2) "child" means an individual—

4               (A) who—

5                   (i) is an offspring or adopted child of the  
6                   participant,

7                   (ii) is a stepchild or recognized natural  
8                   child of the participant and who received  
9                   more than one-half support from the partici-  
10                  pant, or

11                  (iii) lived with the participant, for whom  
12                  a petition of adoption was filed by the par-  
13                  ticipant, and who is adopted by the surviving  
14                  spouse of the participant after the death of  
15                  the participant;

16               (B) who is unmarried; and

17               (C) who—

18                   (i) is under the age of 18 years,

19                   (ii) is a student under the age of 22  
20                  years (for purposes of this clause, an individ-  
21                  ual whose 22d birthday occurs before July 1  
22                  or after August 31 of the calendar year in  
23                  which that birthday occurs, and while the in-  
24                  dividual is a student, is deemed to become

1                   22 years of age on the first July 1 which  
2                   occurs after that birthday), or

3                   (iii) is incapable of self-support because  
4                   of a physical or mental disability which was  
5                   incurred before the individual reached the  
6                   age of 18 years;

7                   (3) "court" means any court of any State or of  
8                   the District of Columbia;

9                   (4) "court order" means any court decree of di-  
10                  vorce or annulment, or any court order or court-  
11                  approved property settlement agreement incident to  
12                  any court decree of divorce or annulment;

13                  (5) "Foreign Service normal cost" means the  
14                  level percentage of payroll required to be deposited in  
15                  the Fund to meet the cost of benefits payable under  
16                  the System (computed in accordance with generally ac-  
17                  cepted actuarial practice on an entry-age basis) less the  
18                  value of retirement benefits earned under another re-  
19                  tirement system for Government employees and less  
20                  the cost of credit allowed for military and naval serv-  
21                  ice;

22                  (6) "former spouse" means a former wife or hus-  
23                  band of a participant or former participant who was  
24                  married to such participant for not less than 10 years



1 during periods of service by that participant which are  
2 creditable under section 816;

3 (7) "Fund balance" means the sum of—

4 (A) the investments of the Fund calculated at  
5 par value, plus

6 (B) the cash balance of the Fund on the  
7 books of the Treasury;

8 (8) "lump-sum credit" means the compulsory and  
9 special contributions to the credit of a participant or  
10 former participant in the Fund plus interest on such  
11 contributions at 4 percent a year compounded annually  
12 to December 31, 1976, and after such date, for a par-  
13 ticipant who separates from the Service after complet-  
14 ing at least 1 year of civilian service and before com-  
15 pleting 5 years of such service, at the rate of 3 percent  
16 per year to the date of separation (except that interest  
17 shall not be paid for a fractional part of a month in the  
18 total service or on compulsory and special contributions  
19 from an annuitant for recall service or other service  
20 performed after the date of separation which forms the  
21 basis for annuity);

22 (9) "military and naval service" means honorable  
23 active service—

24 (A) in the Armed Forces of the United  
25 States,

1 (B) in the Regular or Reserve Corps of the  
2 Public Health Service after June 30, 1960, or

3 (C) as a commissioned officer of the National  
4 Oceanic and Atmospheric Administration, or a  
5 predecessor organization, after June 30, 1961,  
6 but does not include service in the National Guard  
7 except when ordered to active duty in the service of  
8 the United States;

9 (10) "pro rata share", in the case of any former  
10 spouse of any participant or former participant, means  
11 a percentage which is equal to the percentage that (A)  
12 the number of years during which the former spouse  
13 was married to the participant during the creditable  
14 service of that participant is of (B) the total number of  
15 years of such creditable service;

16 (11) "student" means a child regularly pursuing a  
17 full-time course of study or training in residence in a  
18 high school, trade school, technical or vocational insti-  
19 tute, junior college, college, university, or comparable  
20 recognized educational institution (for purposes of this  
21 paragraph, a child who is a student shall not be  
22 deemed to have ceased to be a student during any  
23 period between school years, semesters, or terms if the  
24 period of nonattendance does not exceed 5 calendar  
25 months and if the child shows to the satisfaction of the

1 Secretary of State that he or she has a bona fide inten-  
2 tion of continuing to pursue his or her course of study  
3 during the school year, semester, or term immediately  
4 following such period);

5 (12) "surviving spouse" means the surviving wife  
6 or husband of a participant or annuitant who, in the  
7 case of a death in Service or marriage after retirement,  
8 was married to the participant or annuitant for at least  
9 one year immediately preceding his or her death or is a  
10 parent of a child born of the marriage; and

11 (13) "unfunded liability" means the estimated  
12 excess of the present value of all benefits payable from  
13 the Fund over the sum of—

14 (A) the present value of deductions to be  
15 withheld from the future basic salary of partici-  
16 pants and of future agency contributions to be  
17 made on their behalf, plus

18 (B) the present value of Government pay-  
19 ments to the Fund under section 821, plus

20 (C) the Fund balance as of the date the un-  
21 funded liability is determined.

22 SEC. 805. CONTRIBUTIONS TO THE FUND.—(a) 7 per-  
23 cent of the basic salary received by each participant shall be  
24 deducted from the salary and contributed to the Fund for the  
25 payment of annuities, cash benefits, refunds, and allowances.

1 An equal amount shall be contributed by the Department  
2 from the appropriations or fund used for payment of the  
3 salary of the participant. The Department shall deposit in the  
4 Fund the amounts deducted and withheld from basic salary  
5 and the amounts contributed by the Department.

6 (b) Each participant shall be deemed to consent and  
7 agree to such deductions from basic salary. Payment less  
8 such deductions shall be a full and complete discharge and  
9 acquittance of all claims and demands whatsoever for all reg-  
10 ular services during the period covered by such payment,  
11 except the right to the benefits to which the participant shall  
12 be entitled under this Act, notwithstanding any law, rule, or  
13 regulation affecting the salary of the individual.

14 (c)(1) If a member of the Service who is under another  
15 retirement system for Government employees becomes a par-  
16 ticipant in the System by direct transfer, the total contribu-  
17 tions and deposits of that member that would otherwise be  
18 refundable on separation (except voluntary contributions), in-  
19 cluding interest thereon, shall be transferred to the Fund ef-  
20 fective as of the date such member becomes a participant in  
21 the System. Each such member shall be deemed to consent  
22 to the transfer of such funds, and such transfer shall be a  
23 complete discharge and acquittance of all claims and de-  
24 mands against the other Government retirement fund on ac-

1 count of service rendered by such member prior to becoming  
2 a participant in the System.

3 (2) A member of the Service whose contributions are  
4 transferred to the Fund pursuant to paragraph (1) shall not  
5 be required to make additional contributions for periods of  
6 service for which required contributions were made to the  
7 other Government retirement fund; nor shall any refund be  
8 made to any such member on account of contributions made  
9 during any period to the other Government retirement fund  
10 at a higher rate than that fixed by subsection (d).

11 (d)(1) Any participant credited with civilian service after  
12 July 1, 1924—

13 (A) for which no retirement contributions, deduc-  
14 tions, or deposits have been made, or

15 (B) for which a refund of such contributions, de-  
16 ductions, or deposits has been made which has not  
17 been redeposited,

18 may make a special contribution to the Fund equal to the  
19 following percentages of basic salary received for such serv-  
20 ice:

Time of service:	Percent of basic salary
July 1, 1924, through October 15, 1960, inclusive.....	5
October 16, 1960, through December 31, 1969, inclusive .....	6½
On and after January 1, 1970.....	7

21 (2) Notwithstanding paragraph (1), a special contribu-  
22 tion for prior nondeposit service as a National Guard techni-  
23 cian which would be creditable toward retirement under sub-

1 chapter III of chapter 83 of title 5, United States Code, and  
2 for which a special contribution has not been made, shall be  
3 equal to the special contribution for such service computed in  
4 accordance with the schedule in paragraph (1) multiplied by  
5 the percentage of such service that is creditable under section  
6 816.

7 (3) Special contributions under this subsection shall in-  
8 clude interest computed from the midpoint of each service  
9 period included in the computation, or from the date refund  
10 was paid, to the date of payment of the special contribution  
11 or commencing date of annuity, whichever is earlier. Interest  
12 shall be compounded at the annual rate of 4 percent to De-  
13 cember 31, 1976, and 3 percent thereafter. No interest shall  
14 be charged on special contributions for any period of separa-  
15 tion from Government service which began before October 1,  
16 1956. Special contributions may be paid in installments (in-  
17 cluding by allotment of pay) when authorized by the Secre-  
18 tary of State.

19 (e) Contributions shall not be required for any period of  
20 military and naval service or for any period for which credit  
21 is allowed to individuals of Japanese ancestry under section  
22 816 for periods of internment during World War II.

23 (f) A participant or survivor may make a special contri-  
24 bution at any time before receipt of annuity and may author-  
25 ize payment by offset against initial annuity accruals.

1        SEC. 806. COMPUTATION OF ANNUITIES.—(a) The an-  
2        nuity of a participant shall be equal to 2 percent of his or her  
3        average basic salary for the highest 3 consecutive years of  
4        service multiplied by the number of years, not exceeding 35,  
5        of service credit obtained in accordance with sections 816  
6        and 817, except that the highest 3 years of service shall be  
7        used in computing the annuity of any participant who serves  
8        an assignment under section 302(b) in a position to which the  
9        participant was appointed by the President and whose con-  
10       tinuity of service in that position is interrupted prior to retire-  
11       ment by appointment or assignment to any other position de-  
12       termined by the Secretary of State to be of comparable im-  
13       portance. In determining the aggregate period of service  
14       upon which the annuity is to be based, the fractional part of a  
15       month, if any, shall not be counted. The annuity shall be  
16       reduced by 10 percent of any special contribution described  
17       in section 805(d) which is due for service for which no contri-  
18       butions were made and which remains unpaid unless the par-  
19       ticipant elects to eliminate the service involved for purposes  
20       of annuity computation.

21       (b)(1)(A) Except to the extent provided otherwise under  
22       a written election under subparagraph (B) or (C), if at the  
23       time of retirement a participant or former participant is mar-  
24       ried (or has a former spouse who has not remarried before  
25       attaining age 60), the participant shall receive a reduced an-

1 nuity and provide a survivor annuity for his or her spouse  
2 under this subsection or former spouse under section 814(b),  
3 or a combination of such annuities, as the case may be.

4 (B) At the time of retirement, a married participant or  
5 former participant and his or her spouse may jointly elect in  
6 writing to waive a survivor annuity for that spouse under this  
7 section (or under section 814(b) if the spouse later qualifies as  
8 a former spouse under section 804(6)), or to reduce such sur-  
9 vivor annuity by designating a portion of the annuity of the  
10 participant as the base for the survivor benefit.

11 (C) If a participant or former participant has a former  
12 spouse, the participant and such former spouse may jointly  
13 elect in writing to waive a survivor annuity under section  
14 814(b) for that former spouse if the election is made (i) before  
15 the end of the 12-month period after the divorce or annul-  
16 ment involving that former spouse becomes final or (ii) at the  
17 time of retirement, whichever occurs first.

18 (2) The annuity of a participant or former participant  
19 providing a survivor benefit under this section (or section  
20 814(b)), excluding any portion of the annuity not designated  
21 or committed as a base for any survivor annuity, shall be  
22 reduced by 2½ percent of the first \$3,600 plus 10 percent of  
23 any amount over \$3,600. The reduction under this paragraph  
24 shall be calculated before any reduction under section  
25 814(a)(5).



1       (3)(A) If a former participant entitled to receive a re-  
2 duced annuity under this subsection dies and is survived by a  
3 spouse, a survivor annuity shall be paid to the surviving  
4 spouse equal to 55 percent of the full amount of the partici-  
5 pant's annuity computed under subsection (a), or 55 percent  
6 of any lesser amount elected as the base for the survivor  
7 benefit under paragraph (1)(B).

8       (B) Notwithstanding subparagraph (A), the amount of  
9 the annuity calculated under subparagraph (A) for a surviving  
10 spouse in any case in which there is also a surviving former  
11 spouse of the participant who qualifies for an annuity under  
12 section 814(b) may not exceed 55 percent of the portion (if  
13 any) of the base for survivor benefits which remains available  
14 under section 814(b)(4)(B).

15       (C) An annuity payable from the Fund to a surviving  
16 spouse under this paragraph shall commence on the day the  
17 participant dies and shall terminate on the last day of the  
18 month before the surviving spouse's death or remarriage  
19 before attaining age 60. If such a survivor annuity is termi-  
20 nated because of remarriage, it shall be restored at the same  
21 rate commencing on the date such remarriage is terminated if  
22 any lump sum paid upon termination of the annuity is re-  
23 turned to the Fund.

24       (c)(1) If an annuitant who was a participant dies and is  
25 survived by a spouse and by a child or children, in addition to

1 the annuity payable to the surviving spouse, there shall be  
2 paid to or on behalf of each child an annuity equal to the  
3 smaller of—

4 (A) \$900, or

5 (B) \$2,700 divided by the number of children.

6 (2) If an annuitant who was a participant dies and is not  
7 survived by a spouse but by a child or children, each surviv-  
8 ing child shall be paid an annuity equal to the smaller of—

9 (A) \$1,080, or

10 (B) \$3,240 divided by the number of children.

11 (3) The amounts specified in this subsection are subject  
12 to—

13 (A) cost-of-living adjustments as specified under  
14 section 826(c)(3), and

15 (B) the minimum specified in subsection (l)(2) of  
16 this section.

17 (d) If a surviving spouse dies or the annuity of a child is  
18 terminated, the annuities of any remaining children shall be  
19 recomputed and paid as though such spouse or child had not  
20 survived the participant. If the annuity to a surviving child  
21 who has not been receiving an annuity is initiated or re-  
22 sumed, the annuities of any other children shall be recomput-  
23 ed and paid from that date as though the annuities to all  
24 currently eligible children in the family were then being initi-  
25 ated.

1 (e) The annuity payable to a child under subsection (c)  
2 or (d) shall begin on the day after the participant dies, or if  
3 the child is not then qualified, on the first day of the month in  
4 which the child becomes eligible. The annuity of a child shall  
5 terminate on the last day of the month which precedes the  
6 month in which eligibility ceases.

7 (f) At the time of retirement an unmarried participant  
8 who does not have a former spouse for whose benefit a reduc-  
9 tion is made under subsection (b) may elect to receive a re-  
10 duced annuity and to provide for an annuity equal to 55 per-  
11 cent of the reduced annuity payable after his or her death to  
12 a beneficiary whose name is designated in writing to the Sec-  
13 retary of State. The annuity payable to a participant making  
14 such election shall be reduced by 10 percent of an annuity  
15 computed under subsection (a) and by 5 percent of an annuity  
16 so computed for each full 5 years the designated beneficiary  
17 is younger than the retiring participant, but such total reduc-  
18 tion shall not exceed 40 percent. No such election of a re-  
19 duced annuity payable to a beneficiary shall be valid until the  
20 participant has satisfactorily passed a physical examination  
21 as prescribed by the Secretary of State. The annuity payable  
22 to a beneficiary under this subsection shall begin on the day  
23 after the annuitant dies and shall terminate on the last day of  
24 the month preceding the death of the beneficiary. An annuity  
25 which is reduced under this subsection (or any similar prior

1 provision of law) shall, effective the first day of the month  
2 following the death of the beneficiary named under this sub-  
3 section, be recomputed and paid as if the annuity had not  
4 been so reduced.

5 (g) A participant or former participant who was unmar-  
6 ried at retirement and who later marries may, within one  
7 year after such marriage, irrevocably elect in writing to re-  
8 ceive a reduced annuity and to provide a survivor annuity for  
9 the spouse (if such spouse qualifies as a surviving spouse  
10 under section 804(12)). Receipt by the Secretary of State of  
11 notice of an election under this subsection voids prospectively  
12 any election previously made under subsection (f). The reduc-  
13 tion in annuity required by an election under this subsection  
14 shall be computed and the amount of the survivor annuity  
15 shall be determined in accordance with subsections (b) (2) and  
16 (3). The annuity reduction or recomputation shall be effective  
17 the first day of the month beginning one year after the date  
18 of marriage.

19 (h) A surviving spouse or surviving former spouse of any  
20 participant or former participant shall not become entitled to  
21 a survivor annuity or to the restoration of a survivor annuity  
22 payable from the Fund unless the survivor elects to receive it  
23 instead of any other survivor annuity to which he or she may  
24 be entitled under this or any other retirement system for

1 Government employees on the basis of a marriage to some-  
2 one other than that participant.

3 (i)(1) Any married annuitant who reverts to retired  
4 status with entitlement to a supplemental annuity under sec-  
5 tion 823 shall, unless the annuitant and his or her spouse  
6 jointly elect in writing to the contrary at that time, have the  
7 supplemental annuity reduced by 10 percent to provide a  
8 supplemental survivor annuity for his or her spouse. Such  
9 supplemental survivor annuity shall be equal to 55 percent of  
10 the supplemental annuity of the annuitant and shall be pay-  
11 able to a surviving spouse to whom the annuitant was mar-  
12 ried at the time of reversion to retired status or to whom the  
13 annuitant had been married for at least one year at the time  
14 of death or who is a parent of a child born of the marriage.

15 (2) The Secretary of State shall issue regulations to pro-  
16 vide for the application of paragraph (1) of this subsection  
17 and of section 823 of this Act in any case in which an annu-  
18 itant has a former spouse who was married to the participant  
19 during the period of recall service or who qualifies for an  
20 annuity under section 814(a) or (b).

21 (j) An annuity which is reduced under this section or  
22 any similar prior provision of law to provide a survivor bene-  
23 fit for a spouse shall, if the marriage of the participant to  
24 such spouse is dissolved, be recomputed and paid for each full  
25 month during which an annuitant is not married (or is remar-

1 ried if there is no election in effect under the following sen-  
2 tence) as if the annuity had not been so reduced. Upon re-  
3 marriage the retired participant may irrevocably elect, by  
4 means of a signed writing received by the Secretary within  
5 one year after such remarriage, to receive during such mar-  
6 riage a reduction in annuity for the purpose of allowing an  
7 annuity for the new spouse of the annuitant in the event such  
8 spouse survives the annuitant. Such reduction shall be equal  
9 to the reduction in effect immediately before the dissolution  
10 of the previous marriage (unless such reduction is adjusted  
11 under section 814(b)(5)), and shall be effective the first day of  
12 the first month beginning one year after the date of remar-  
13 riage. A survivor annuity elected under this subsection shall  
14 be treated in all respects as a survivor annuity under subsec-  
15 tion (b).

16 (k) The Secretary of State shall, on an annual basis—

17 (1) inform each participant of his or her right of  
18 election under subsections (g) and (j); and

19 (2) to the maximum extent practicable, inform  
20 spouses or former spouses of participants or former  
21 participants of their rights under this section and sec-  
22 tion 814.

23 (l)(1) The monthly rate of an annuity payable under this  
24 chapter to an annuitant, other than a child, shall not be less  
25 than the smallest primary insurance amount, including any

1 cost-of-living increase added to that amount, authorized to be  
2 paid from time to time under title II of the Social Security  
3 Act (42 U.S.C. 401 et seq.).

4 (2) The monthly rate of an annuity payable under this  
5 chapter to a surviving child shall not be less than the small-  
6 est primary insurance amount, including any cost-of-living in-  
7 crease added to that amount, authorized to be paid from time  
8 to time under title II of the Social Security Act (42 U.S.C.  
9 401 et seq.) or three times such primary insurance amount  
10 divided by the number of surviving children entitled to an  
11 annuity, whichever is the lesser.

12 (3) This subsection does not apply to an annuitant or to  
13 a survivor who is or becomes entitled to receive from the  
14 United States an annuity or retired pay under any other civil-  
15 ian or military retirement system, benefits under title II of  
16 the Social Security Act (42 U.S.C. 401 et seq.), a pension,  
17 veterans' compensation, or any other periodic payment of a  
18 similar nature, when the monthly rate thereof is equal to or  
19 greater than the smallest primary insurance amount, includ-  
20 ing any cost-of-living increase added to that amount, author-  
21 ized to be paid from time to time under title II of the Social  
22 Security Act (42 U.S.C. 401 et seq.).

23 SEC. 807. PAYMENT OF ANNUITY.—(a) Except as oth-  
24 erwise provided, the annuity of a former participant who has  
25 met the eligibility requirements for an annuity shall com-

1 mence on the day after separation from the Service or on the  
2 day after pay ceases. The annuity of a former participant  
3 who is entitled to a deferred annuity under this Act shall  
4 become effective on the day he or she attains age 60.

5 (b) The annuity to a survivor shall become effective as  
6 otherwise specified but shall not be paid until the survivor  
7 submits an application for such annuity, supported by such  
8 proof of eligibility as the Secretary of State may require. If  
9 such application or proof of eligibility is not submitted during  
10 the lifetime of an otherwise eligible individual, no annuity  
11 shall be due or payable to his or her estate.

12 (c) An individual entitled to annuity from the Fund may  
13 decline to accept all or any part of the annuity by submitting  
14 a signed waiver to the Secretary of State. The waiver may  
15 be revoked in writing at any time. Payment of the annuity  
16 waived may not be made for the period during which the  
17 waiver was in effect.

18 (d) Recovery of overpayments under this chapter may  
19 not be made from an individual when, in the judgment of the  
20 Secretary of State, the individual is without fault and recov-  
21 ery would be against equity and good conscience or adminis-  
22 tratively infeasible.

23 SEC. 808. RETIREMENT FOR DISABILITY OR INCA-  
24 PACITY.—(a) Any participant who has at least 5 years of  
25 service credit toward retirement under the System (excluding



1 military and naval service) and who becomes totally disabled  
2 or incapacitated for useful and efficient service by reason of  
3 disease, illness, or injury (not due to vicious habits, intemper-  
4 ance, or willful conduct of the participant) shall, upon his or  
5 her own application or upon order of the Secretary, be retired  
6 on an annuity computed as prescribed in section 806. If the  
7 disabled or incapacitated participant has less than 20 years of  
8 service credit toward retirement under the System at the  
9 time of retirement, his or her annuity shall be computed on  
10 the assumption that the participant has had 20 years of serv-  
11 ice, except that the additional service credit that may accrue  
12 to a participant under this sentence shall in no case exceed  
13 the difference between his or her age at the time of retire-  
14 ment and age 60.

15 (b) Before being retired under this section, the partici-  
16 pant shall be given a physical examination by one or more  
17 duly qualified physicians or surgeons designated by the Sec-  
18 retary of State to conduct examinations. Disability or inca-  
19 pacity shall be determined by the Secretary of State on the  
20 basis of the advice of such physicians or surgeons. Unless the  
21 disability or incapacity is permanent, like examinations shall  
22 be made annually until the annuitant has attained age 60. If  
23 the Secretary of State determines on the basis of the advice  
24 of one or more duly qualified physicians or surgeons conduct-  
25 ing such examinations that an annuitant has recovered to the

1 extent that he or she can return to duty, the annuitant may  
2 apply for reinstatement or reappointment in the Service  
3 within 1 year from the date recovery is determined. Upon  
4 application, the Secretary shall reinstate such recovered an-  
5 nuitant in the class in which the annuitant was serving at  
6 time of retirement, or the Secretary may, taking into consid-  
7 eration the age, qualifications, and experience of such annu-  
8 itant, and the present class of his or her contemporaries in  
9 the Service, appoint or recommend that the President ap-  
10 point the annuitant to a higher class. Payment of the annuity  
11 shall continue until a date 6 months after the date of the  
12 examination showing recovery or until the date of reinstate-  
13 ment or reappointment in the Service, whichever is earlier.  
14 Fees for examinations under this section, together with rea-  
15 sonable traveling and other expenses incurred in order to  
16 submit to examination, shall be paid out of the Fund. If the  
17 annuitant fails to submit to examination as required under  
18 this subsection, payment of the annuity shall be suspended  
19 until continuance of the disability or incapacity is satisfactori-  
20 ly established.

21 (c) If a recovered annuitant whose annuity is discontin-  
22 ued is for any reason not reinstated or reappointed in the  
23 Service, he or she shall be considered to have been separated  
24 within the meaning of section 810 as of the date of retire-  
25 ment for disability or incapacity and shall, after the discon-

1 tinuance of the annuity, be entitled to the benefits of that  
2 section or of section 815, except that he or she may elect  
3 voluntary retirement if eligible under section 811.

4 (d) No participant shall be entitled to receive an annuity  
5 under this Act and compensation for injury or disability to  
6 himself or herself under subchapter I of chapter 81 of title 5,  
7 United States Code, covering the same period of time, except  
8 that a participant may simultaneously receive both an annu-  
9 ity under this section and scheduled disability payments  
10 under section 8107 of title 5, United States Code. This sub-  
11 section shall not bar the right of any claimant to the greater  
12 benefit conferred by either this Act or such subchapter for  
13 any part of the same period of time. Neither this subsection  
14 nor any provision of such subchapter shall be construed to  
15 deny the right of any participant to receive an annuity under  
16 this Act and to receive concurrently any payment under such  
17 subchapter by reason of the death of any other individual.

18 (e) Notwithstanding any other law, the right of any indi-  
19 vidual entitled to an annuity under this Act shall not be af-  
20 fected because such person has received an award of compen-  
21 sation in a lump sum under section 8135 of title 5, United  
22 States Code, except that where such annuity is payable on  
23 account of the same disability for which compensation under  
24 such section has been paid, so much of such compensation as  
25 has been paid for any period extended beyond the date such

1 annuity becomes effective, as determined by the Secretary of  
2 Labor, shall be refunded to the Department of Labor, to be  
3 paid into the Federal Employees' Compensation Fund.  
4 Before such individual receives such annuity, he or she  
5 shall—

6 (1) refund to the Department of Labor the amount  
7 representing such commuted payments for such ex-  
8 tended period, or

9 (2) authorize the deduction of such amount from  
10 the annuity payable under this Act, which amount  
11 shall be transmitted to the Department of Labor for re-  
12 imbursement to such Fund.

13 Deductions from such annuity may be made from accrued  
14 and accruing payments, or may be prorated against and paid  
15 from accruing payments in such manner as the Secretary of  
16 Labor shall determine, whenever the Secretary of Labor finds  
17 that the financial circumstances of the annuitant warrant de-  
18 ferred refunding.

19 (f) A claim may be allowed under this section only if the  
20 application is filed with the Secretary of State before the par-  
21 ticipant is separated from the Service or within one year  
22 thereafter. This time limitation may be waived by the Secre-  
23 tary of State for a participant who at the date of separation  
24 from the Service or within one year thereafter is mentally  
25 incompetent, if the application is filed with the Secretary of

1 State within one year from the date of restoration of the par-  
2 ticipant to competency or the appointment of a fiduciary,  
3 whichever is earlier.

4 SEC. 809. DEATH IN SERVICE.—(a) If a participant  
5 dies and no claim for annuity is payable under this Act, the  
6 lump-sum credit shall be paid in accordance with section 815.

7 (b) If a participant who has at least 18 months of civil-  
8 ian service credit toward retirement under the System dies  
9 before retirement or other separation from the Service and is  
10 survived by a spouse or former spouse qualifying for an annu-  
11 ity under section 814(b), such surviving spouse shall be enti-  
12 tled to an annuity equal to 55 percent of the annuity comput-  
13 ed in accordance with subsections (e) and (g) of this section  
14 and section 806(a) and any surviving former spouse shall be  
15 entitled to an annuity under section 814(b) as if the partici-  
16 pant died after being entitled to an annuity under this chap-  
17 ter. If the participant had less than 3 years creditable civilian  
18 service at the time of death, the survivor annuity shall be  
19 computed on the basis of the average salary for the entire  
20 period of such service.

21 (c) If a participant who has at least 18 months of civil-  
22 ian service credit toward retirement under the System dies  
23 before retirement or other separation from the Service and is  
24 survived by a spouse and a child or children, each surviving

1 child shall be entitled to an annuity computed in accordance  
2 with subsections (c)(1) and (d) of section 806.

3 (d) If a participant who has at least 18 months of civil-  
4 ian service credit toward retirement under the System dies  
5 before retirement or other separation from the Service and is  
6 not survived by a spouse, but by a child or children, each  
7 surviving child shall be entitled to an annuity computed in  
8 accordance with subsections (c)(2) and (d) of section 806.

9 (e) If, at the time of his or her death, the participant had  
10 less than 20 years of service credit toward retirement under  
11 the System, the annuity payable in accordance with subsec-  
12 tion (b) shall be computed in accordance with section 806 on  
13 the assumption he or she has had 20 years of service, except  
14 that the additional service credit that may accrue to a de-  
15 ceased participant under this subsection shall in no case  
16 exceed the difference between his or her age on the date of  
17 death and age 60. In all cases arising under this subsection  
18 or subsection (b), (c), (d), or (g), it shall be assumed that the  
19 deceased participant was qualified for retirement on the date  
20 of death.

21 (f) If an annuitant who elected a reduced annuity dies in  
22 service after being recalled under section 308 and is survived  
23 by a spouse or former spouse entitled to a survivor annuity  
24 based on such an election, such survivor annuity shall be  
25 computed as if the recall service had otherwise terminated on

1 the day of death and the annuity of the deceased had been  
2 resumed in accordance with section 823. If such death occurs  
3 after the annuitant had completed sufficient recall service to  
4 attain eligibility for a supplemental annuity, a surviving  
5 spouse or surviving former spouse who was married to the  
6 participant during the period of recall service shall be entitled  
7 to elect, in addition to any other benefits and in lieu of a  
8 refund of retirement contributions made during the recall  
9 service, a supplemental survivor annuity computed and paid  
10 under section 806(i) as if the recall service had otherwise  
11 terminated. If the annuitant had completed sufficient recall  
12 service to attain eligibility to have his or her annuity deter-  
13 mined anew, a surviving spouse or such a surviving former  
14 spouse may elect, in lieu of any other survivor benefit under  
15 this chapter, to have the rights of the annuitant redetermined  
16 and to receive a survivor annuity computed under subsection  
17 (b) on the basis of the total service of the annuitant.

18 (g) Notwithstanding subsection (b), if the participant or  
19 former participant had a former spouse qualifying for an an-  
20 nuity under section 814(b), the annuity of the spouse under  
21 this section shall be subject to the limitation of section  
22 806(b)(3)(B).

23 (h) Annuities that become payable under this section  
24 shall commence, terminate, and be resumed in accordance

1 with subsection (b)(4), (e), or (h) of section 806, as appropri-  
2 ate.

3 SEC. 810. DISCONTINUED SERVICE RETIREMENT.—

4 Any participant who voluntarily separates from the Service  
5 after obtaining at least 5 years of service credit toward re-  
6 tirement under the System (excluding military and naval  
7 service) may upon separation from the Service or at any time  
8 prior to becoming eligible for an annuity elect to have his or  
9 her contributions to the Fund returned in accordance with  
10 section 815, or to leave his or her contributions in the Fund  
11 and receive an annuity, computed under section 806, com-  
12 mencing at age 60.

13 SEC. 811. VOLUNTARY RETIREMENT.—Any partici-  
14 pant who is at least 50 years of age and has 20 years of  
15 creditable service, including at least 5 years of service credit  
16 toward retirement under the System (excluding military and  
17 naval service), may on his or her own application and with  
18 the consent of the Secretary be retired from the Service and  
19 receive retirement benefits in accordance with section 806.

20 SEC. 812. MANDATORY RETIREMENT.—(a) Except as  
21 provided in subsection (b), any participant shall be retired  
22 from the Service at the end of the month in which the partici-  
23 pant reaches age 60 if the participant has at least 5 years of  
24 service credit toward retirement under the System (excluding



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1 military and naval service) and shall receive retirement bene-  
2 fits in accordance with section 806.

3 (b) Any participant who reaches age 60 while occupying  
4 a position to which he or she was appointed by the President,  
5 by and with the advice and consent of the Senate, may con-  
6 tinue to serve until that appointment is terminated. In addi-  
7 tion, whenever the Secretary determines it to be in the public  
8 interest, any participant who has reached age 60 may be  
9 retained on active service for a period not to exceed 5 years.  
10 Any participant who completes a period of service after  
11 reaching age 60 as authorized by this subsection shall be  
12 retired at the end of the month in which such authorized  
13 service is completed.

14 SEC. 813. RETIREMENT OF FORMER PRESIDENTIAL  
15 APPOINTEES.—If a participant completes an assignment  
16 under section 302(b) in a position to which he or she was  
17 appointed by the President and has not been reassigned  
18 within 3 months after the termination of such assignment  
19 (plus any period of authorized leave), the participant shall be  
20 retired from the Service and receive retirement benefits in  
21 accordance with section 806.

22 SEC. 814. FORMER SPOUSES.—(a)(1) Unless otherwise  
23 expressly provided by any court order under section  
24 820(b)(1), a former spouse of a participant or former partici-  
25 pant is entitled to an annuity—

1 (A) if married to the participant throughout the  
2 creditable service of the participant, equal to 50 per-  
3 cent of the annuity of the participant; or

4 (B) if not married to the participant through such  
5 creditable service, equal to that former spouse's pro  
6 rata share of 50 percent of such annuity.

7 (2) A former spouse shall not be qualified for an annuity  
8 under this subsection if before the commencement of that an-  
9 nuity the former spouse remarries before becoming 60 years  
10 of age.

11 (3) The annuity of a former spouse under this subsection  
12 commences on the later of the day the participant upon  
13 whose service the annuity is based becomes entitled to an  
14 annuity under this title or the first day of the month in which  
15 the divorce or annulment involved becomes final. The annu-  
16 ity of such former spouse and the right thereto terminate  
17 on—

18 (A) the last day of the month before the former  
19 spouse dies or remarries before 60 years of age; or

20 (B) the date the annuity of the participant termi-  
21 nates (except in the case of an annuity subject to para-  
22 graph (5)(B)).

23 (4) No court order under section 820(b)(1) involving any  
24 participant may provide for an annuity or any combination of  
25 annuities under this subsection which exceeds the annuity of

1 the participant, nor may any such order relating to an annu-  
2 ity under this subsection be given effect if it is issued more  
3 than 12 months after the date the divorce or annulment in-  
4 volved becomes final.

5 (5)(A) The annuity payable to any participant or former  
6 participant shall be reduced by the amount of an annuity  
7 under this subsection of any former spouse based upon the  
8 service of that participant. Such reduction shall be disre-  
9 garded in calculating the survivor annuity for any spouse,  
10 former spouse, or other survivor under this chapter, and in  
11 calculating any reduction in the annuity of the participant to  
12 provide survivor benefits under subsection (b) or section  
13 806(b)(3).

14 (B) If any annuitant whose annuity is reduced under  
15 subparagraph (A) is recalled to service under section 308, or  
16 reinstated or reappointed in the Service in the case of a re-  
17 covered disability annuitant or if any annuitant is reemployed  
18 as provided for under section 824, the salary of that annu-  
19 itant shall be reduced by the same amount as the annuity  
20 would have been reduced if it had continued. Amounts equal  
21 to the reductions under this subparagraph shall be deposited  
22 in the Treasury of the United States to the credit of the  
23 Fund.

24 (6) Notwithstanding paragraph (3), in the case of any  
25 former spouse of a disability annuitant—

1           (A) the annuity of that former spouse shall com-  
2           mence on the later of the date the participant would  
3           qualify on the basis of his or her creditable service for  
4           an annuity under this chapter (other than a disability  
5           annuity) or the date the disability annuity begins, and

6           (B) the amount of the annuity of the former  
7           spouse shall be calculated on the basis of the annuity  
8           for which the participant would otherwise so qualify.

9           (7) An annuity under this subsection shall be treated the  
10          same as a survivor annuity under subsection (b) for purposes  
11          of section 806(h) or any comparable provision of law.

12          (b)(1) Subject to any election under section 806(b)(1)(C)  
13          and unless otherwise expressly provided by any court order  
14          under section 820(b)(1), if a former participant who is entitled  
15          to receive an annuity is survived by a former spouse, the  
16          former spouse shall be entitled to a survivor annuity—

17               (A) if married to the participant throughout the  
18               creditable service of the participant, equal to 55 per-  
19               cent of the full amount of the participant's annuity, as  
20               computed under section 806(a); or

21               (B) if not married to the participant throughout  
22               such creditable service, equal to that former spouse's  
23               pro rata share of 55 percent of the full amount of such  
24               annuity.

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1       (2) A former spouse shall not be qualified for an annuity  
2 under this subsection if before the commencement of that an-  
3 nuity the former spouse remarries before becoming 60 years  
4 of age.

5       (3) An annuity payable from the Fund to a surviving  
6 former spouse under this subsection shall commence on the  
7 day the annuitant dies and shall terminate on the last day of  
8 the month before the former spouse's death or remarriage  
9 before attaining age 60. If such a survivor annuity is termi-  
10 nated because of remarriage, it shall be restored at the same  
11 rate commencing on the date such remarriage is terminated if  
12 any lump sum paid upon termination of the annuity is re-  
13 turned to the Fund.

14       (4)(A) The maximum survivor annuity or combination of  
15 survivor annuities under this section (and section 806(b)(3))  
16 with respect to any participant or former participant may not  
17 exceed 55 percent of the full amount of the participant's an-  
18 nuity, as calculated under section 806(a).

19       (B) Once a survivor annuity has been provided for under  
20 this subsection for any former spouse, a survivor annuity may  
21 thereafter be provided for under this subsection (or section  
22 806(b)(3)) with respect to a participant or former participant  
23 only for that portion (if any) of the maximum available which  
24 is not committed for survivor benefits for any former spouse

1 whose prospective right to such annuity has not terminated  
2 by reason of death or remarriage.

3 (C) After the death of a participant or former partici-  
4 pant, a court order under section 820(b)(1) may not adjust  
5 the amount of the annuity of any former spouse under this  
6 section.

7 (5) For each full month after a former spouse of a par-  
8 ticipant dies or remarries before attaining age 60, the annuity  
9 of the participant, if reduced to provide a survivor annuity for  
10 that former spouse, shall be recomputed and paid as if the  
11 annuity had not been so reduced unless the participant is  
12 then married and elects in writing within one year after the  
13 death or remarriage of the former spouse to continue the re-  
14 duction in order to provide a higher survivor annuity under  
15 section 806(b)(3) for any spouse of the participant.

16 (c)(1) In the case of any participant or former partici-  
17 pant providing a survivor annuity benefit under subsection (b)  
18 for a former spouse—

19 (A) such participant may elect, or

20 (B) a court order under section 820(b)(1) may pro-  
21 vide for,

22 an additional survivor annuity under this subsection for any  
23 other former spouse or spouse surviving the participant, if the  
24 participant satisfactorily passes a physical examination as  
25 prescribed by the Secretary of State.

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1       (2) Neither the total amount of survivor annuity or an-  
2 nnuities elected or ordered under this subsection with respect  
3 to any participant or former participant, nor the survivor an-  
4 nuity or annuities for any one surviving spouse or former  
5 spouse of such participant under this section and section  
6 806(b)(3), shall exceed 55 percent of the full amount of the  
7 participant's annuity, as computed under section 806(a).

8       (3)(A) In accordance with regulations which the Secre-  
9 tary of State shall prescribe, the participant involved shall  
10 provide for any annuity under this subsection—

11           (i) by a reduction in the annuity or salary of the  
12 participant,

13           (ii) by a lump sum payment or installment pay-  
14 ments to the Fund, or

15           (iii) by any combination of such reduction and  
16 payments.

17       (B) The present value of the total amount to accrue to  
18 the Fund under subparagraph (A) to provide any annuity  
19 under this subsection shall be actuarially equivalent in value  
20 to such annuity, as calculated upon such tables of mortality  
21 as may from time to time be prescribed for this purpose by  
22 the Secretary of State.

23       (C) If a former spouse predeceases the participant or  
24 remarries before attaining age 60 (or, in the case of a spouse,

1 the spouse does not qualify as a former spouse upon dissolu-  
2 tion of the marriage)—

3 (i) if an annuity or salary reduction under subpar-  
4 agraph (A) is in effect for that spouse or former  
5 spouse, the annuity or salary shall be recomputed and  
6 paid as if it had not been reduced, and

7 (ii) any amount accruing to the Fund under sub-  
8 paragraph (A) shall be refunded, but only to the extent  
9 that such amount may have exceeded the actuarial cost  
10 of providing benefits under this subsection for the  
11 period such benefits were provided, as determined  
12 under regulations prescribed by the Secretary of State.

13 (4) An annuity payable under this subsection to a spouse  
14 or former spouse shall commence on the day after the partici-  
15 pant dies and shall terminate on the last day of the month  
16 before the former spouse's death or remarriage before attain-  
17 ing age 60.

18 (5) Section 826 shall not apply to any annuity under this  
19 subsection, unless authorized under regulations prescribed by  
20 the Secretary of State.

21 (d) Section 806(l) shall not apply—

22 (1) to any annuity payable under subsection (a) or  
23 (b) to any former spouse if the amount of that annuity  
24 varies by reason of a court order under section  
25 820(b)(1) from the amount which would be calculated



1 under subsection (a)(1) or (b)(1), as the case may be, in  
2 the absence of such court order; and

3 (2) to any annuity payable under subsection (c).

4 SEC. 815. LUMP-SUM PAYMENTS.—(a) Whenever a  
5 participant becomes separated from the Service without be-  
6 coming eligible for an annuity or a deferred annuity under  
7 this chapter, a lump-sum credit shall be paid to the partici-  
8 pant (and to any former spouse of the participant, in accord-  
9 ance with subsection (i)).

10 (b) Whenever an annuitant becomes separated from the  
11 Service following a period of recall service without becoming  
12 eligible for a supplemental or recomputed annuity under sec-  
13 tion 823, the compulsory contributions of the annuitant to the  
14 Fund for such service, together with any special contribu-  
15 tions the annuitant may have made for other service per-  
16 formed after the date of separation from the Service which  
17 forms the basis for annuity, shall be returned to the annuitant  
18 (and any former spouse of the annuitant who was married to  
19 the participant during the period of recall service, in accord-  
20 ance with subsection (i)).

21 (c) If all annuity rights under this chapter based on the  
22 service of a deceased participant or annuitant terminate  
23 before the total annuity paid equals the lump-sum credit, the  
24 difference shall be paid in accordance with subsection (f).

1 (d) If a participant or former participant dies and is not  
2 survived by an individual eligible for an annuity under this  
3 chapter or by such an individual or individuals all of whose  
4 annuity rights terminate before a claim for survivor annuity  
5 is filed, the lump-sum credit shall be paid in accordance with  
6 subsection (f).

7 (e) If an annuitant who was a former participant dies,  
8 any annuity accrued and unpaid shall be paid in accordance  
9 with subsection (f).

10 (f) Payments under subsections (c) through (e) shall be  
11 paid in the following order of precedence to individuals sur-  
12 viving the participant and alive on the date entitlement to the  
13 payment arises, upon the establishment of a valid claim  
14 therefor, and such payment shall be a bar to recovery by any  
15 other person:

16 (1) To the beneficiary or beneficiaries last desig-  
17 nated by the participant before or after retirement in a  
18 signed and witnessed writing filed with the Secretary  
19 of State prior to the death of the participant, for which  
20 purpose a designation, change, or cancellation of bene-  
21 ficiary in a will or other document which is not so ex-  
22 ecuted and filed shall have no force or effect.

23 (2) If there is no such beneficiary, to the surviving  
24 wife or husband of the participant.

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1           (3) If none of the above, to the child (without  
2       regard to the definition in section 804(2)) or children of  
3       the participant (including adopted and natural children  
4       but not stepchildren) and descendants of deceased chil-  
5       dren by representation.

6           (4) If none of the above, to the parents of the par-  
7       ticipant or the survivor of them.

8           (5) If none of the above, to the duly appointed ex-  
9       ecutor or administrator of the estate of the participant.

10          (6) If none of the above, to such other next of kin  
11       of the participant as may be determined in the judg-  
12       ment of the Secretary of State to be legally entitled to  
13       such payment, except that no payment shall be made  
14       under this paragraph until after the expiration of 30  
15       days after the death of the participant or annuitant.

16       (g) Annuity accrued and unpaid on the death of a survi-  
17       vor annuitant shall be paid in the following order of prece-  
18       dence, and the payment bars recovery by any other person:

19           (1) To the duly appointed executor or administra-  
20       tor of the estate of the survivor annuitant.

21           (2) If there is no such executor or administrator,  
22       to such person as may be determined by the Secretary  
23       of State (after the expiration of 30 days from the date  
24       of death of the survivor annuitant) to be entitled under

1       the laws of the domicile of the survivor annuitant at  
2       the time of death.

3       (h) Amounts deducted and withheld from basic salary of  
4       a participant under section 805 from the beginning of the first  
5       pay period after the participant has completed 35 years of  
6       service computed under section 816 (excluding service credit  
7       for unused sick leave under section 816(b)), together with  
8       interest on the amounts at the rate of 3 percent a year com-  
9       pounded annually from the date of the deduction to the date  
10      of retirement or death, shall be applied toward any special  
11      contribution due under section 805(d), and any balance not so  
12      required shall be refunded in a lump sum to the participant  
13      after separation or, in the event of a death in service, to a  
14      beneficiary in the order of precedence specified in subsection  
15      (f).

16      (i) Unless otherwise expressly provided by any court  
17      order under section 820(b)(1), the amount of a participant's  
18      or former participant's lump-sum credit payable to a former  
19      spouse of that participant shall be—

20           (1) if the former spouse was married to the par-  
21      ticipant throughout the period of creditable service of  
22      the participant, 50 percent of the lump-sum credit to  
23      which such participant would be entitled in the absence  
24      of this subsection, or

1           (2) if such former spouse was not married to the  
2       participant throughout such creditable service, an  
3       amount equal to such former spouse's pro rata share of  
4       50 percent of such lump-sum credit.

5       The lump-sum credit of the participant shall be reduced by  
6       the amount of the lump-sum credit payable to the former  
7       spouse.

8       SEC. 816. CREDITABLE SERVICE.—(a) Except as oth-  
9       erwise specified by law, all periods of civilian and military  
10      and naval service, and all other periods through the date of  
11      final separation of a participant from the Service that the  
12      Secretary of State determines would be creditable toward re-  
13      tirement under the Civil Service Retirement and Disability  
14      System (as determined in accordance with section 8332 of  
15      title 5, United States Code), shall be creditable for purposes  
16      of this chapter. Conversely, any such service performed after  
17      December 31, 1976, that would not be creditable under spec-  
18      ified conditions under section 8332 of title 5, United States  
19      Code, shall be excluded under this chapter under the same  
20      conditions.

21      (b) In computing any annuity under this chapter, the  
22      total service of a participant who retires on an immediate  
23      annuity or who dies leaving a survivor or survivors entitled  
24      to annuity includes (without regard to the 35-year limitation  
25      imposed by section 806(a)) the days of unused sick leave to

1 the credit of the participant, except that these days shall not  
2 be counted in determining average basic salary or annuity  
3 eligibility under this chapter. A contribution to the Fund shall  
4 not be required from a participant for this service credit.

5 (c)(1) A participant who enters on approved leave with-  
6 out pay to serve as a full-time officer or employee of an orga-  
7 nization composed primarily of Government employees may,  
8 within 60 days after entering on that leave without pay, file  
9 with the employing agency an election to receive full retire-  
10 ment credit for such periods of leave without pay and arrange  
11 to pay concurrently into the Fund through the employing  
12 agency, amounts equal to the retirement deductions and  
13 agency contributions on the Foreign Service salary rate that  
14 would be applicable if the participant were in a pay status. If  
15 the election and all payments provided by this subsection are  
16 not made for the periods of such leave without pay occurring  
17 after November 7, 1976, the participant may not receive any  
18 credit for such periods of leave without pay occurring after  
19 such date.

20 (2) A participant may make a special contribution for  
21 any period or periods of approved leave without pay while  
22 serving before November 7, 1976, as a full-time officer or  
23 employee of an organization composed primarily of Govern-  
24 ment employees. Any such contribution shall be based upon  
25 the suspended Foreign Service salary rate and shall be com-

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1 puted in accordance with section 805. A participant who  
2 makes such contributions shall be allowed full retirement  
3 credit for the period or periods of leave without pay. If this  
4 contribution is not made, up to 6 months' retirement credit  
5 shall be allowed for such periods of leave without pay each  
6 calendar year.

7 (d) A participant who has received a refund of retire-  
8 ment contributions (which has not been repaid) under this or  
9 any other retirement system for Government employees cov-  
10 ering service which may be creditable may make a special  
11 contribution for such service under section 805. Credit may  
12 not be allowed for service covered by the refund unless the  
13 special contribution is made.

14 (e) No credit in annuity computation shall be allowed for  
15 any period of civilian service for which a participant made  
16 retirement contributions to another retirement system for  
17 Government employees unless—

18 (1) the right to any annuity under the other  
19 system which is based on such service is waived, and

20 (2) a special contribution is made under section  
21 805 covering such service.

22 (f) A participant who during a period of war, or national  
23 emergency proclaimed by the President or declared by the  
24 Congress, leaves the Service to enter the military service is  
25 deemed, for the purpose of this chapter, as not separated

1 from the Service unless the participant applies for and re-  
2 ceives a lump-sum payment under section 815. However, the  
3 participant is deemed to be separated from the Service after  
4 the expiration of 5 years of such military service.

5 (g)(1) An annuity or survivor annuity based on the serv-  
6 ice of a participant of Japanese ancestry who would be eligi-  
7 ble under section 8332(l) of title 5, United States Code, for  
8 credit for civilian service for periods of internment during  
9 World War II shall, upon application to the Secretary of  
10 State, be recomputed to give credit for that service. Any such  
11 recomputation of an annuity shall apply with respect to  
12 months beginning more than 30 days after the date on which  
13 application for such recomputation is received by the Secre-  
14 tary of State.

15 (2) The Secretary of State shall take such action as may  
16 be necessary and appropriate to inform individuals entitled to  
17 have any service credited or annuity recomputed under  
18 this subsection of their entitlement to such credit  
19 or recomputation.

20 (3) The Secretary of State shall, on request, assist any  
21 individual referred to in paragraph (1) in obtaining from any  
22 agency or other Government establishment information nec-  
23 essary to verify the entitlement of the individual to have any  
24 service credited or any annuity recomputed under this sub-  
25 section.



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1       (4) Any agency or other Government establishment  
2 shall, upon request, furnish to the Secretary of State any  
3 information it possesses with respect to the internment or  
4 other detention, as described in section 8332(l) of title 5,  
5 United States Code, of any participant.

6       (h) A participant who, while on approved leave without  
7 pay, serves as a full-time paid employee of a Member or  
8 office of the Congress shall continue to make contributions to  
9 the Fund based upon the Foreign Service salary rate that  
10 would be in effect if the participant were in a pay status. The  
11 participant's employing office in the Congress shall make a  
12 matching contribution (from the appropriation or fund which  
13 is used for payment of the salary of the participant) to the  
14 Treasury of the United States to the credit of the Fund. All  
15 periods of service for which full contributions to the Fund are  
16 made under this subsection shall be counted as creditable  
17 service for purposes of this chapter and shall not, unless all  
18 retirement credit is transferred, be counted as creditable  
19 service under any other Government retirement system.

20       (i)(1) Service of a participant shall be considered credit-  
21 able service for purposes of applying provisions of this chap-  
22 ter relating to former spouses if such service would be  
23 creditable—

24               (A) under subsection (c)(1) or (2) but for the fact  
25       an election was not made under subsection (c)(1) or a

1 special contribution was not made under subsection  
2 (c)(2), and

3 (B) under subsection (d) but for the fact that a  
4 refund of contributions has not been repaid unless the  
5 former spouse received under this chapter a portion of  
6 the lump sum (or a court order provided otherwise).

7 (2) A former spouse shall not be considered as married  
8 to a participant—

9 (A) for periods assumed to be creditable service  
10 under section 808(a) or section 809(e), or

11 (B) for any extra period of creditable service pro-  
12 vided under section 817 for service of a participant at  
13 an unhealthful post unless the former spouse resided  
14 with the participant at that post during that period.

15 SEC. 817. EXTRA CREDIT FOR SERVICE AT UN-  
16 HEALTHFUL POSTS.—The Secretary of State may from time  
17 to time establish a list of places which by reason of climatic  
18 or other extreme conditions are to be classed as unhealthful  
19 posts. Each year of duty at such posts, inclusive of regular  
20 leaves of absence, shall be counted as one and a half years in  
21 computing the length of the service of a participant for the  
22 purpose of retirement, fractional months being considered as  
23 full months in computing such service. No such extra credit  
24 for service at such unhealthful posts shall be credited to any

1 participant who is paid a differential under section 5925 or  
2 5928 of title 5, United States Code, for such service.

3       SEC. 818. ESTIMATE OF APPROPRIATIONS  
4 NEEDED.—The Secretary of the Treasury shall prepare the  
5 estimates of the annual appropriations required to be made to  
6 the Fund, and shall make actuarial valuations of the System  
7 at intervals of not more than five years. The Secretary of  
8 State may expend from money to the credit of the Fund an  
9 amount not exceeding \$5,000 per year for the incidental ex-  
10 penses necessary in administering the provisions of this chap-  
11 ter, including actuarial advice.

12       SEC. 819. INVESTMENT OF THE FUND.—The Secre-  
13 tary of the Treasury shall invest from time to time in inter-  
14 est-bearing securities of the United States such portions of  
15 the Fund as in the judgment of the Secretary of the Treasury  
16 may not be immediately required for the payment of annu-  
17 ities, cash benefits, refunds, and allowances. The income de-  
18 rived from such investments shall constitute a part of the  
19 Fund.

20       SEC. 820. ASSIGNMENT AND ATTACHMENT OF  
21 MONEYS.—(a)(1) An individual entitled to an annuity from  
22 the Fund may make allotments or assignments of amounts  
23 from such annuity for such purposes as the Secretary of State  
24 in his or her sole discretion considers appropriate.

1       (2) Notwithstanding section 3477 of the Revised Stat-  
2       utes of the United States (31 U.S.C. 203) or any other law, a  
3       member of the Service who is entitled to receive benefits  
4       under section 609(b)(1) may assign to any person the whole  
5       or any part of those benefits. Any such assignment shall be  
6       on a form approved by the Secretary of the Treasury and a  
7       copy of such assignment form shall be deposited with the  
8       Secretary of the Treasury by the member executing the  
9       assignment.

10       (b)(1)(A) In the case of any participant or annuitant who  
11       has a former spouse with respect to whom there is a court  
12       order—

13               (i) any right of any former spouse to any annuity  
14       under section 814(a) in connection with any retirement  
15       or disability annuity of the participant, and the amount  
16       of any annuity under such section 814(a);

17               (ii) any right of a former spouse to a survivor an-  
18       nuity under section 814(b) or (c), and the amount of  
19       any such annuity under section 814(b) or (c) for any  
20       surviving former spouse of the participant or annuitant;  
21       and

22               (iii) any right of any former spouse to any pay-  
23       ment of a lump-sum credit under section 815(a) or (b);

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1 shall be determined in accordance with a court order, if and  
2 to the extent expressly provided for in the terms of that court  
3 order.

4 (B) This paragraph shall not apply in the case of any  
5 court order which is inconsistent with the requirements of  
6 this chapter, as determined by the Secretary of State.

7 (2) Except with respect to obligations between partici-  
8 pants and former spouses, payments under this chapter which  
9 would otherwise be made to a participant or annuitant based  
10 upon his or her service shall be paid (in whole or in part) by  
11 the Secretary of State to another individual to the extent  
12 expressly provided for in the terms of any order or any court  
13 decree of legal separation, or the terms of any court order or  
14 court-approved property settlement agreement incident to  
15 any court decree of legal separation.

16 (3) Paragraphs (1) and (2) shall apply only to payments  
17 made under this chapter for periods beginning after the date  
18 of receipt by the Secretary of State of written notice of such  
19 decree, order, or agreement, and such additional information  
20 and such documentation as the Secretary of State may  
21 require.

22 (4) Any payment under this subsection to an individual  
23 bars recovery by any other individual.

24 (5) The 10-year requirement of section 804(b)(6), or any  
25 other provision of this chapter, shall not be construed to

1 affect the rights any spouse or individual formerly married to  
2 a participant or annuitant may have, under any law or rule of  
3 law of any State or the District of Columbia, with respect to  
4 an annuity of a participant or annuitant under this chapter.

5 (c) None of the moneys mentioned in this chapter shall  
6 be assignable either in law or equity, except under subsection  
7 (a) or (b) of this section, or subject to execution, levy, attach-  
8 ment, garnishment, or other legal process, except as other-  
9 wise may be provided by Federal law.

10 SEC. 821. PAYMENTS FOR FUTURE BENEFITS.—(a)

11 Any statute which authorizes—

12 (1) new or liberalized benefits payable from the  
13 Fund, including annuity increases other than under  
14 section 825;

15 (2) extension of the benefits of the System to new  
16 groups of employees; or

17 (3) increases in salary on which benefits are  
18 computed;

19 is deemed to authorize appropriations to the Fund to finance  
20 the unfunded liability created by that statute, in 30 equal  
21 annual installments with interest computed at the rate used  
22 in the then most recent valuation of the System and with the  
23 first payment thereof due as of the end of the fiscal year in  
24 which each new or liberalized benefit, extension of benefits,  
25 or increase in salary is effective.

1 (b) There is authorized to be appropriated to the Fund  
2 for each fiscal year an amount equal to the amount of the  
3 Foreign Service normal cost for that year which is not met  
4 by contributions to the Fund under section 805(a).

5 SEC. 822. UNFUNDED LIABILITY OBLIGATIONS.—(a)  
6 At the end of each fiscal year, the Secretary of State shall  
7 notify the Secretary of the Treasury of the amount equivalent  
8 to—

9 (1) interest on the unfunded liability computed for  
10 that year at the interest rate used in the then most  
11 recent valuation of the System, and

12 (2) that portion of disbursement for annuities for  
13 that year which the Secretary of State estimates is  
14 attributable to credit allowed for military and naval  
15 service.

16 (b) Before closing the accounts for each fiscal year, the  
17 Secretary of the Treasury shall credit such amounts to the  
18 Fund, as a Government contribution, out of any money in the  
19 Treasury of the United States not otherwise appropriated.

20 (c) Requests for appropriations to the Fund under sec-  
21 tion 821(b) shall include reports to the Congress on the sums  
22 credited to the Fund under this section.

23 SEC. 823. ANNUITY ADJUSTMENT FOR RECALL SERV-  
24 ICE.—(a) Any annuitant recalled to duty in the Service under  
25 section 308(a) shall, while so serving, be entitled in lieu of

1 annuity to the full salary of the class in which serving.  
2 During such service the recalled annuitant shall make contri-  
3 butions to the Fund in accordance with section 805. On the  
4 day following termination of the recall service, the former  
5 annuity shall be resumed, adjusted by any cost-of-living in-  
6 creases under section 825 that became effective during the  
7 recall period.

8 (b) If the recall service lasts less than one year, the  
9 contributions of the annuitant to the Fund during recall serv-  
10 ice shall be refunded in accordance with section 815. If the  
11 recall service lasts more than one year, the annuitant may, in  
12 lieu of such refund, elect a supplemental annuity computed  
13 under section 806 on the basis of service credit and average  
14 salary earned during the recall period irrespective of the  
15 number of years of service credit previously earned. If the  
16 recall service continues for at least 5 years, the annuitant  
17 may elect to have his or her annuity determined anew under  
18 section 806 in lieu of any other benefits under this section.  
19 Any annuitant who is recalled under section 308 may upon  
20 written application count as recall service any prior service  
21 that is creditable under section 816 that was performed after  
22 the separation upon which his or her annuity is based.

23 SEC. 824. REEMPLOYMENT.—(a) Notwithstanding any  
24 other law, any member of the Service who has retired and is  
25 receiving an annuity under this chapter, and who is reem-



1   ployed in the Government service in any part-time or full-  
2   time appointive position, shall be entitled to receive the  
3   salary of the position in which he or she is serving plus so  
4   much of the annuity payable under this chapter which when  
5   combined with such salary does not exceed during any calen-  
6   dar year the basic salary the member was entitled to receive  
7   under this Act on the date of retirement from the Service.  
8   Any such reemployed member of the Service who receives  
9   salary during any calendar year in excess of the maximum  
10   amount which he or she may be entitled to receive under this  
11   subsection shall be entitled to such salary in lieu of benefits  
12   under this chapter.

13       (b) When any such retired member of the Service is  
14   reemployed, the employer shall send a notice of such reem-  
15   ployment to the Secretary of State, together with all perti-  
16   nent information relating to such employment, and shall pay  
17   directly to such member the salary of the position in which he  
18   or she is serving.

19       (c) In the event of any overpayment under this section,  
20   such overpayment shall be recovered by withholding the  
21   amount involved from the salary payable to such reemployed  
22   member of the Service or from any other moneys, including  
23   annuity payments, payable under this chapter.

24       SEC. 825. VOLUNTARY CONTRIBUTIONS.—(a) The vol-  
25   untary contribution account shall be the sum of unrefunded

1 amounts voluntarily contributed prior to the effective date of  
2 this Act by any participant or former participant under any  
3 prior law authorizing such contributions to the Fund, plus  
4 interest compounded at the rate of 3 percent per year to the  
5 date of separation from the Service or (in case of participant  
6 or former participant separated with entitlement to a deferred  
7 annuity) to the date the voluntary contribution account is  
8 claimed, the commencing date fixed for the deferred annuity,  
9 or the date of death, whichever is earlier. Effective on the  
10 date the participant becomes eligible for an annuity or a de-  
11 ferred annuity and at the election of the participant, his or  
12 her account shall be—

13 (1) returned in a lump sum;

14 (2) used to purchase an additional life annuity;

15 (3) used to purchase an additional life annuity for  
16 the participant and to provide for a cash payment on  
17 his or her death to a beneficiary whose name shall be  
18 notified in writing to the Secretary of State by the par-  
19 ticipant; or

20 (4) used to purchase an additional life annuity for  
21 the participant and a life annuity commencing on his or  
22 her death payable to a beneficiary whose name shall be  
23 notified in writing to the Secretary of State by the par-  
24 ticipant, with a guaranteed return to the beneficiary or

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1 his or her legal representative of an amount equal to  
2 the cash payment referred to in paragraph (3).

3 (b) The benefits provided by subsection (a) (2), (3), or (4)  
4 shall be actuarially equivalent in value to the payment pro-  
5 vided for by subsection (a)(1) and shall be calculated upon  
6 such tables of mortality as may be from time to time pre-  
7 scribed for this purpose by the Secretary of the Treasury.

8 (c) A voluntary contribution account shall be paid in a  
9 lump sum following receipt of an application therefor from a  
10 present or former participant if application is filed prior to  
11 payment of any additional annuity. If not sooner paid, the  
12 account shall be paid at such time as the participant sepa-  
13 rates from the Service for any reason without entitlement to  
14 an annuity or a deferred annuity or at such time as a former  
15 participant dies or withdraws compulsory contributions to the  
16 Fund. In case of death, the account shall be paid in the order  
17 of precedence specified in section 815(f).

18 SEC. 826. COST-OF-LIVING ADJUSTMENTS OF ANNU-  
19 ITIES.—(a) A cost-of-living annuity increase shall become ef-  
20 fective under this section on the effective date of each such  
21 increase under section 8340(b) of title 5, United States Code.  
22 Each such increase shall be applied to each annuity payable  
23 from the Fund which has a commencing date not later than  
24 the effective date of the increase.

1 (b) Each annuity increase under this section shall be  
2 identical to the corresponding percentage increase under sec-  
3 tion 8340(b) of title 5, United States Code.

4 (c) Eligibility for an annuity increase under this section  
5 shall be governed by the commencing date of each annuity  
6 payable from the Fund as of the effective date of an increase  
7 except as follows:

8 (1) An annuity (except a deferred annuity) payable  
9 from the Fund to a participant who retires and re-  
10 ceives an immediate annuity, or to a surviving spouse  
11 or former spouse of a deceased participant who dies in  
12 service or who dies after being separated with benefits  
13 under section 609(b)(2), which has a commencing date  
14 after the effective date of the then last preceding gen-  
15 eral annuity increase under this section shall not be  
16 less than the annuity which would have been payable if  
17 the commencing date of such annuity had been the ef-  
18 fective date of such last preceding increase. In the ad-  
19 ministration of this paragraph, the number of days of  
20 unused sick leave to the credit of a participant or de-  
21 ceased participant on the effective date of the then last  
22 preceding general annuity increase under this section  
23 shall be deemed to be equal to the number of days of  
24 unused sick leave to his or her credit on the day of  
25 separation from the Service.

1           (2) Effective from its commencing date, an annu-  
2       ity payable from the Fund to the survivor of an annu-  
3       itant, except a child entitled to an annuity under sec-  
4       tion 806(c) or 809(c) or (d), shall be increased by the  
5       total percentage increase the annuitant was receiving  
6       under this section at death.

7           (3) For purposes of computing or recomputing an  
8       annuity to a child under section 806(c) or (d) or 809(c)  
9       or (d), the items \$900, \$1,080, \$2,700, and \$3,240 ap-  
10      pearing in section 806(c) shall be increased by the total  
11      percentage increases by which corresponding amounts  
12      are being increased under section 8340 of title 5,  
13      United States Code, on the date the annuity of the  
14      child becomes effective.

15          (d) No increase in annuity provided by this section shall  
16      be computed on any additional annuity purchased at retire-  
17      ment by voluntary contributions.

18          (e) The monthly installment of annuity after adjustment  
19      under this section shall be fixed at the nearest dollar, except  
20      such installment shall after adjustment reflect an increase of  
21      at least \$1.

22          (f) Effective from its commencing date, there shall be an  
23      increase of 10 percent in the annuity of each surviving spouse  
24      whose entitlement to annuity resulted from the death of an

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1 annuitant who, prior to October 1, 1976, elected a reduced  
2 annuity in order to provide a spouse's survivor annuity.

3 SEC. 827. COMPATIBILITY BETWEEN CIVIL SERVICE  
4 AND FOREIGN SERVICE RETIREMENT SYSTEMS.—(a) In  
5 order to maintain existing conformity between the Civil Serv-  
6 ice Retirement and Disability System under subchapter III of  
7 chapter 83 of title 5, United States Code, and the Foreign  
8 Service Retirement and Disability System, whenever a law  
9 of general applicability is enacted which—

10 (1) affects the treatment of current or former par-  
11 ticipants, annuitants, or survivors under the Civil Serv-  
12 ice Retirement and Disability System; and

13 (2) affects treatment which, immediately prior to  
14 the enactment of such law, was substantially identical  
15 to the treatment accorded to participants, former par-  
16 ticipants, annuitants, or survivors under the Foreign  
17 Service Retirement and Disability System;

18 such law shall be extended in accordance with subsection (b)  
19 to the Foreign Service Retirement and Disability System so  
20 that it applies in like manner with respect to participants,  
21 former participants, annuitants, or survivors under that  
22 System.

23 (b) The President shall by Executive order prescribe  
24 regulations to implement this section and to make such ex-  
25 tension retroactive to a date no earlier than the effective date

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1 of the provision of law applicable to the Civil Service Retirement and Disability System. Any provision of an Executive  
2 order issued under this section shall modify, supersede, or  
3 render inapplicable, as the case may be, to the extent inconsistent therewith—

4 (1) all provisions of law enacted prior to the effective date of that provision of the Executive order, and

5 (2) any prior provision of an Executive order issued under this section.

6 CHAPTER 9—TRAVEL, LEAVE, AND OTHER BENEFITS

7 SEC. 901. TRAVEL AND RELATED EXPENSES.—The  
8 Secretary may pay the travel and related expenses of members of the Service and their families, including costs or expenses incurred for—

9 (1) proceeding to and returning from assigned posts of duty;

10 (2) authorized or required home leave;

11 (3) family members to accompany, precede, or follow a member of the Service to a place of temporary duty;

12 (4) representational travel within the country to which the member of the Service is assigned or, when not more than one family member participates, outside such country;

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1           (5) obtaining necessary medical care for an illness,  
2       injury, or medical condition while abroad in a locality  
3       where there is no suitable person or facility to provide  
4       such care (without regard to those laws and regula-  
5       tions limiting or restricting the furnishing or payment  
6       of transportation and traveling expenses), as well as  
7       expenses for—

8           (A) an attendant or attendants for a member  
9           of the Service or a family member who is too ill  
10          to travel unattended or for a family member who  
11          is too young to travel alone, and

12          (B) a family member incapable of caring for  
13          himself or herself if he or she remained at the  
14          post at which the member of the Service is serv-  
15          ing;

16          (6) rest and recuperation travel of members of the  
17          Service who are United States citizens, and members  
18          of their families, while serving at locations abroad spe-  
19          cifically designated by the Secretary for purposes of  
20          this paragraph, to—

21          (A) other locations abroad having different  
22          social, climatic, or other environmental conditions  
23          than those at the post at which the member of the  
24          Service is serving, or

25          (B) locations in the United States;



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1       except that, unless the Secretary otherwise specifies in  
2       extraordinary circumstances, travel expenses under this  
3       paragraph shall be limited to the cost for a member of  
4       the Service, and for each member of the family of the  
5       member, of 1 round trip during any continuous 2-year  
6       tour unbroken by home leave and of 2 round trips  
7       during any continuous 3-year tour unbroken by home  
8       leave;

9               (7) removal of the family members of a member of  
10       the Service, and the furniture and household and per-  
11       sonal effects (including automobiles) of the family, from  
12       a Foreign Service post where there is imminent danger  
13       because of the prevalence of disturbed conditions, and  
14       the return of such individuals, furniture, and effects to  
15       such post upon the cessation of such conditions, or to  
16       such other Foreign Service post as may in the mean-  
17       time have become the post to which the member of the  
18       Service has been reassigned;

19              (8) trips by a member of the Service for purposes  
20       of family visitation in situations where the family of the  
21       member is prevented by official order from accompany-  
22       ing the member to, or has been ordered from, the as-  
23       signed post of the member because of imminent danger  
24       due to the prevalence of disturbed conditions, except  
25       that—

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1 (A) with respect to any such member whose  
2 family is located in the United States, the Secre-  
3 tary may pay the costs and expenses for not to  
4 exceed two round trips in a 12-month period; and

5 (B) with respect to any such member whose  
6 family is located abroad, the Secretary may pay  
7 such costs and expenses for trips in a 12-month  
8 period as do not exceed the cost of 2 round trips  
9 (at less than first class) to the District of Colum-  
10 bia;

11 (9) round-trip travel from a location abroad for  
12 purposes of family visitation in emergency situations  
13 involving personal hardship;

14 (10) preparing and transporting to the designated  
15 home in the United States or to a place not more dis-  
16 tant, the remains of a member of the Service, or of a  
17 family member of a member of the Service, who dies  
18 abroad or while in travel status;

19 (11) transporting the furniture and household and  
20 personal effects of a member of the Service (and of his  
21 or her family) to successive posts of duty and, on sepa-  
22 ration of a member from the Service, to the place  
23 where the member will reside (or if the member has  
24 died, to the place where his or her family will reside);

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1           (12) packing and unpacking, transporting to and  
2           from a place of storage, and storing the furniture and  
3           household and personal effects of a member of the  
4           Service (and of his or her family)—

5                   (A) when the member is absent from his or  
6                   her post of assignment under orders or is assigned  
7                   to a Foreign Service post to which such furniture  
8                   and household and personal effects cannot be  
9                   taken or at which they cannot be used, or when it  
10                  is in the public interest or more economical to au-  
11                  thorize storage;

12                   (B) in connection with an assignment of the  
13                   member to a new post, except that costs and ex-  
14                   penses may be paid under this subparagraph only  
15                   for the period beginning on the date of departure  
16                   from his or her last post or (in the case of a new  
17                   member) on the date of departure from the place  
18                   of residence of the member and ending on the ear-  
19                   lier of the date which is 3 months after arrival of  
20                   the member at the new post or the date on which  
21                   the member establishes residence quarters; and

22                   (C) in connection with separation of the  
23                   member from the Service, except that costs or ex-  
24                   penses may not be paid under this subparagraph

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1       for storing furniture and household and personal  
2       effects for more than 3 months;

3       (13) transporting, for or on behalf of a member of  
4       the Service, a privately owned motor vehicle in any  
5       case in which the Secretary determines that water,  
6       rail, or air transportation of the motor vehicle is neces-  
7       sary or expedient for all or any part of the distance be-  
8       tween points of origin and destination, but transporta-  
9       tion may be provided under this paragraph for only one  
10      motor vehicle of a member during any 48-month period  
11      while the member is continuously serving abroad,  
12      except that another motor vehicle may be so transport-  
13      ed as a replacement for such motor vehicle if such re-  
14      placement—

15               (A) is determined, in advance, by the Secre-  
16               tary to be necessary for reasons beyond the con-  
17               trol of the member and in the interest of the Gov-  
18               ernment, or

19               (B) is incident to a reassignment when the  
20               cost of transporting the replacement motor vehicle  
21               does not exceed the cost of transporting the motor  
22               vehicle that is replaced;

23      (14) the travel and relocation of members of the  
24      Service, and members of their families, assigned to or  
25      within the United States, including assignments under

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1 subchapter VI of chapter 33 of title 5, United States  
2 Code (notwithstanding section 3375(a) of such title, if  
3 an agreement similar to that required by section  
4 3375(b) of such title is executed by the member of the  
5 Service); and

6 (15) 1 round-trip per year for each child below  
7 age 21 of a member of the Service assigned abroad—

8 (A) to visit the member abroad if the child  
9 does not regularly reside with the member and  
10 the member is not receiving an education allow-  
11 ance or educational travel allowance for the child  
12 under section 5924(4) of title 5, United States  
13 Code; or

14 (B) to visit the other parent of the child if  
15 the other parent resides in a country other than  
16 the country to which the member is assigned and  
17 the child regularly resides with the member and  
18 does not regularly attend school in the country in  
19 which the other parent resides,

20 except that a payment under this paragraph may not  
21 exceed the cost of round-trip travel between the post  
22 to which the member is assigned and the port of entry  
23 in the contiguous 48 States which is nearest to that  
24 post.

1 SEC. 902. LOAN OF HOUSEHOLD EFFECTS.—The Sec-  
2 retary may, as a means of eliminating transportation costs,  
3 provide members of the Service with basic household furnish-  
4 ing and equipment for use on a loan basis in personally  
5 owned or leased residences.

6 SEC. 903. REQUIRED LEAVE IN THE UNITED  
7 STATES.—(a) The Secretary may order a member of the  
8 Service who is a citizen of the United States to take a leave  
9 of absence under section 6305 of title 5, United States Code  
10 (without regard to the introductory clause of subsection (a) of  
11 that section), upon completion by that member of 18 months  
12 of continuous service abroad. The Secretary shall order on  
13 such a leave of absence a member of the Service who is a  
14 citizen of the United States as soon as possible after comple-  
15 tion by that member of 3 years of continuous service abroad.

16 (b) Leave ordered under this section may be taken in the  
17 United States, its territories and possessions, or the Com-  
18 monwealth of Puerto Rico.

19 (c) While on a leave of absence ordered under this sec-  
20 tion, the services of any member of the Service shall be avail-  
21 able for such work or duties in the Department or elsewhere  
22 as the Secretary may prescribe, but the time of such work or  
23 duties shall not be counted as leave.

24 SEC. 904. HEALTH CARE.—(a) The Secretary of State  
25 may establish a health care program to promote and maintain

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1 the physical and mental health of members of the Service,  
2 and (when incident to service abroad) other designated eligi-  
3 ble Government employees, and members of the families of  
4 such members and employees.

5 (b) Any such health care program may include (1) medi-  
6 cal examinations for applicants for employment, (2) medical  
7 examinations and inoculations or vaccinations for members of  
8 the Service and employees of the Department who are citi-  
9 zens of the United States and for members of their families,  
10 and (3) examinations necessary in order to establish disability  
11 or incapacity of participants in the Foreign Service Retire-  
12 ment and Disability System or to provide survivor benefits  
13 under chapter 8.

14 (c) The Secretary of State may establish health care  
15 facilities and provide for the services of physicians, nurses, or  
16 other health care personnel at Foreign Service posts abroad  
17 at which, in the opinion of the Secretary of State, a sufficient  
18 number of Government employees are assigned to warrant  
19 such facilities or services.

20 (d) If an individual eligible for health care under this  
21 section incurs an illness, injury, or medical condition while  
22 abroad which requires hospitalization or similar treatment,  
23 the Secretary may pay all or part of the cost of such treat-  
24 ment. Limitations on such payments established by regula-  
25 tion may be waived whenever the Secretary determines that

1 the illness, injury, or medical condition clearly was caused or  
2 materially aggravated by the fact that the individual con-  
3 cerned is or has been located abroad.

4 (e) Health care may be provided under this section to a  
5 member of the Service or other designated eligible Govern-  
6 ment employee after the separation of such member or em-  
7 ployee from Government service. Health care may be pro-  
8 vided under this section to a member of the family of a  
9 member of the Service or of a designated eligible Govern-  
10 ment employee after the separation from Government service  
11 or the death of such member of the Service or employee or  
12 after dissolution of the marriage.

13 (f) The Secretary of State shall review on a continuing  
14 basis the health care program provided for in this section.  
15 Whenever the Secretary of State determines that all or any  
16 part of such program can be provided for as well and as  
17 cheaply in other ways, the Secretary may, for such individ-  
18 uals, locations, and conditions as the Secretary of State  
19 deems appropriate, contract for health care pursuant to such  
20 arrangements as the Secretary deems appropriate.

21 SEC. 905. REPRESENTATION EXPENSES.—Notwith-  
22 standing section 5536 of title 5, United States Code, the Sec-  
23 retary may provide for official receptions and may pay enter-  
24 tainment and representational expenses (including expenses  
25 of family members) to enable the Department and the Service



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1 to provide for the proper representation of the United States  
2 and its interests.

3 CHAPTER 10—LABOR-MANAGEMENT RELATIONS

4 SEC. 1001. LABOR-MANAGEMENT POLICY.—The Con-  
5 gress finds that—

6 (1) experience in both private and public employ-  
7 ment indicates that the statutory protection of the right  
8 of workers to organize, bargain collectively, and par-  
9 ticipate through labor organizations of their own choos-  
10 ing in decisions which affect them—

11 (A) safeguards the public interest,

12 (B) contributes to the effective conduct of  
13 public business, and

14 (C) facilitates and encourages the amicable  
15 settlement of disputes between workers and their  
16 employers involving conditions of employment;

17 (2) the public interest demands the highest stand-  
18 ards of performance by members of the Service and the  
19 continuous development and implementation of modern  
20 and progressive work practices to facilitate improved  
21 performance and efficiency; and

22 (3) the unique conditions of Foreign Service em-  
23 ployment require a distinct framework for the develop-  
24 ment and implementation of modern, constructive, and

1 cooperative relationships between management officials  
2 and organizations representing members of the Service.  
3 Therefore, labor organizations and collective bargaining in  
4 the Service are in the public interest and are consistent with  
5 the requirement of an effective and efficient Government.  
6 The provisions of this chapter should be interpreted in a  
7 manner consistent with the requirement of an effective and  
8 efficient Government.

9 SEC. 1002. DEFINITIONS.—As used in this chapter, the  
10 term—

11 (1) “Authority” means the Federal Labor Rela-  
12 tions Authority, described in section 7104(a) of title 5,  
13 United States Code;

14 (2) “Board” means the Foreign Service Labor  
15 Relations Board, established by section 1006(a);

16 (3) “collective bargaining” means the performance  
17 of the mutual obligation of the management repre-  
18 sentative of the Department and of the exclusive repre-  
19 sentative of employees to meet at reasonable times and  
20 to consult and bargain in a good-faith effort to reach  
21 agreement with respect to the conditions of employ-  
22 ment affecting employees, and to execute, if requested  
23 by either party, a written document incorporating any  
24 collective bargaining agreement reached, but this obli-

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1     gation does not compel either party to agree to a pro-  
2     posal or to make a concession;

3     (4) "collective bargaining agreement" means an  
4     agreement entered into as a result of collective bar-  
5     gaining under the provisions of this chapter;

6     (5) "conditions of employment" means personnel  
7     policies, practices, and matters, whether established by  
8     regulation or otherwise, affecting working conditions,  
9     but does not include policies, practices, and matters—

10         (A) relating to political activities prohibited  
11         abroad or prohibited under subchapter III of  
12         chapter 73 of title 5, United States Code;

13         (B) relating to the designation or classifica-  
14         tion of any position under section 501;

15         (C) to the extent such matters are specifi-  
16         cally provided for by Federal statute; or

17         (D) relating to Government-wide or multi-  
18         agency responsibility of the Secretary affecting  
19         the rights, benefits, or obligations of individuals  
20         employed in agencies other than those which are  
21         authorized to utilize the Foreign Service person-  
22         nel system;

23     (6) "confidential employee" means an employee  
24     who acts in a confidential capacity with respect to an

1 individual who formulates or effectuates management  
2 policies in the field of labor-managment relations;

3 (7) "dues" means dues, fees, and assessments;

4 (8) "employee" means—

5 (A) a member of the Service who is a citizen  
6 of the United States, wherever serving, other  
7 than a management official, a confidential em-  
8 ployee, a consular agent, or any individual who  
9 participates in a strike in violation of section 7311  
10 of title 5, United States Code; or

11 (B) a former member of the Service as de-  
12 scribed in subparagraph (A) whose employment  
13 has ceased because of an unfair labor practice  
14 under section 1015 and who has not obtained any  
15 other regular and substantially equivalent employ-  
16 ment, as determined under regulations prescribed  
17 by the Board;

18 (9) "exclusive representative" means any labor  
19 organization which is certified as the exclusive repre-  
20 sentative of employees under section 1011;

21 (10) "General Counsel" means the General Coun-  
22 sel of the Authority;

23 (11) "labor organization" means an organization  
24 composed in whole or in part of employees, in which  
25 employees participate and pay dues, and which has as

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1 a purpose dealing with the Department concerning  
2 grievances (as defined in section 1101) and conditions  
3 of employment, but does not include—

4 (A) an organization which, by its constitu-  
5 tion, bylaws, tacit agreement among its members,  
6 or otherwise, denies membership because of race,  
7 color, creed, national origin, sex, age, preferential  
8 or nonpreferential civil service status, political af-  
9 filiation, marital status, or handicapping condition;

10 (B) an organization which advocates the  
11 overthrow of the constitutional form of govern-  
12 ment of the United States;

13 (C) an organization sponsored by the Depart-  
14 ment; or

15 (D) an organization which participates in the  
16 conduct of a strike against the Government or  
17 any agency thereof or imposes a duty or obliga-  
18 tion to conduct, assist, or participate in such a  
19 strike;

20 (12) "management official" means an individual  
21 who—

22 (A) is a chief of mission or principal officer;

23 (B) is serving in a position to which appoint-  
24 ed by the President, by and with the advice and  
25 consent of the Senate, or by the President alone;

1 (C) occupies a position which in the sole  
2 judgment of the Secretary is of comparable impor-  
3 tance to the offices mentioned in subparagraph (A)  
4 or (B);

5 (D) is serving as a deputy to any individual  
6 described by subparagraph (A), (B), or (C);

7 (E) is assigned to carry out functions of the  
8 Inspector General of the Foreign Service under  
9 section 209; or

10 (F) is engaged in the administration of this  
11 chapter or in the formulation of the personnel  
12 policies and programs of the Department;

13 (13) "Panel" means the Foreign Service Impasse  
14 Disputes Panel, established by section 1010(c); and

15 (14) "person" means an individual, a labor orga-  
16 nization, or an agency to which this chapter applies.

17 SEC. 1003. APPLICATION.—(a) This chapter applies  
18 only with respect to the Department of State, the Interna-  
19 tional Communication Agency, the United States Interna-  
20 tional Development Cooperation Agency, the Department of  
21 Agriculture, and the Department of Commerce.

22 (b) The President may by Executive order exclude any  
23 subdivision of the Department from coverage under this  
24 chapter if the President determines that—

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1           (1) the subdivision has as a primary function intel-  
2       ligence, counterintelligence, investigative, or national  
3       security work, and

4           (2) the provisions of this chapter cannot be ap-  
5       plied to that subdivision in a manner consistent with  
6       national security requirements and considerations.

7       (c) The President may by Executive order suspend any  
8       provision of this chapter with respect to any post, bureau,  
9       office, or activity of the Department, if the President deter-  
10      mines in writing that the suspension is necessary in the inter-  
11      est of national security because of an emergency.

12       SEC. 1004. EMPLOYEE RIGHTS.—(a) Every employee  
13      has the right to form, join, or assist any labor organization,  
14      or to refrain from any such activity, freely and without fear of  
15      penalty or reprisal. Each employee shall be protected in the  
16      exercise of such right.

17       (b) Except as otherwise provided under this chapter,  
18      such right includes the right—

19           (1) to act for a labor organization in the capacity  
20          of a representative and, in that capacity, to present the  
21          views of the labor organization to the Secretary and  
22          other officials of the Government, including the Con-  
23          gress, or other appropriate authorities; and

1           (2) to engage in collective bargaining with respect  
2       to conditions of employment through representatives  
3       chosen by employees under this chapter.

4       SEC. 1005. MANAGEMENT RIGHTS.—(a) Subject to  
5       subsection (b), nothing in this chapter shall affect the authori-  
6       ty of any management official of the Department, in accord-  
7       ance with applicable law—

8           (1) to determine the mission, budget, organization,  
9       and internal security practices of the Department, and  
10      the number of individuals in the Service or in the De-  
11      partment;

12          (2) to hire, assign, direct, lay off, and retain indi-  
13      viduals in the Service or in the Department, to sus-  
14      pend, remove, or take other disciplinary action against  
15      such individuals, and to determine the number of mem-  
16      bers of the Service to be promoted and to remove the  
17      name of or delay the promotion of any member in ac-  
18      cordance with regulations prescribed under section  
19      605(b);

20          (3) to assign work, to make determinations with  
21      respect to contracting out, and to determine the per-  
22      sonnel by which the operations of the Department shall  
23      be conducted;

24          (4) to fill positions from any appropriate source;



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1           (5) to determine the need for uniform personnel  
2       policies and procedures between or among the agencies  
3       to which this chapter applies; and

4           (6) to take whatever actions may be necessary to  
5       carry out the mission of the Department during emer-  
6       gencies.

7       (b) Nothing in this section shall preclude the Depart-  
8       ment and the exclusive representative from negotiating—

9           (1) at the election of the Department, on the num-  
10      bers, types, and classes of employees or positions as-  
11      signed to any organizational subdivision, work project,  
12      or tour of duty, or on the technology, methods, and  
13      means of performing work;

14          (2) procedures which management officials of the  
15      Department will observe in exercising any function  
16      under this section; or

17          (3) appropriate arrangements for employees ad-  
18      versely affected by the exercise of any function under  
19      this section by such management officials.

20      SEC. 1006. FOREIGN SERVICE LABOR RELATIONS

21      BOARD.—(a) There is established within the Federal Labor  
22      Relations Authority the Foreign Service Labor Relations  
23      Board. The Board shall be composed of 3 members, 1 of  
24      whom shall be the Chairman of the Authority, who shall be  
25      the Chairperson of the Board. The remaining 2 members

1 shall be appointed by the Chairperson of the Board from  
2 nominees approved in writing by the agencies to which this  
3 chapter applies, and the exclusive representative (if any) of  
4 employees in each such agency. In the event of inability to  
5 obtain agreement on a nominee, the Chairperson shall ap-  
6 point the remaining 2 members from among individuals the  
7 Chairperson considers knowledgeable in labor-management  
8 relations and the conduct of foreign affairs.

9 (b) The Chairperson shall serve on the Board while  
10 serving as Chairman of the Authority. Of the 2 original mem-  
11 bers of the Board other than the Chairperson, one shall be  
12 appointed for a 2-year term and one shall be appointed for a  
13 3-year term. Thereafter, each member of the Board other  
14 than the Chairperson shall be appointed for a term of 3 years,  
15 except that an individual appointed to fill a vacancy occur-  
16 ring before the end of a term shall be appointed for the unex-  
17 pired term of the member replaced. The Chairperson may at  
18 any time designate an alternate Chairperson from among the  
19 members of the Authority.

20 (c) A vacancy on the Board shall not impair the right of  
21 the remaining members to exercise the full powers of the  
22 Board.

23 (d) The members of the Board, other than the Chairper-  
24 son, may hold another office or position in the Government  
25 except as authorized by law, and shall receive compensation

1 at the daily equivalent of the rate payable for level V of the  
2 Executive Schedule under section 5316 of title 5, United  
3 States Code, for each day they are performing their duties  
4 (including traveltime).

5 (e) The Chairperson may remove any other Board  
6 member, upon written notice, for corruption, neglect of duty,  
7 malfeasance, or demonstrated incapacity to perform his or  
8 her functions, established at a hearing, except where the  
9 right to a hearing is waived in writing.

10 SEC. 1007. FUNCTIONS OF THE BOARD.—(a) The  
11 Board shall—

12 (1) supervise or conduct elections and determine  
13 whether a labor organization has been selected as the  
14 exclusive representative by a majority of employees  
15 who cast valid ballots and otherwise administer the  
16 provisions of this chapter relating to the according of  
17 exclusive recognition to a labor organization;

18 (2) resolve complaints of alleged unfair labor prac-  
19 tices;

20 (3) resolve issues relating to the obligation to bar-  
21 gain in good faith;

22 (4) resolve disputes concerning the effect, the in-  
23 terpretation, or a claim of breach of a collective bar-  
24 gaining agreement, in accordance with section 1014;  
25 and

1           (5) take any action considered necessary to ad-  
2           minister effectively the provisions of this chapter.

3           (b) Decisions of the Board under this chapter shall be  
4           consistent with decisions rendered by the Authority under  
5           chapter 71 of title 5, United States Code, other than in cases  
6           in which the Board finds that special circumstances require  
7           otherwise. Decisions of the Board under this chapter shall  
8           not be construed as precedent by the Authority, or any court  
9           or other authority, for any decision under chapter 71 of title  
10          5, United States Code.

11          (c) In order to carry out its functions under this chap-  
12          ter—

13               (1) the Board shall by regulation adopt procedures  
14               to apply in the administration of this chapter; and

15               (2) the Board may—

16                     (A) adopt other regulations concerning its  
17                     functions under this chapter;

18                     (B) conduct appropriate inquiries wherever  
19                     persons subject to this chapter are located;

20                     (C) hold hearings;

21                     (D) administer oaths, take the testimony or  
22                     deposition of any individual under oath, and issue  
23                     subpenas;

24                     (E) require the Department or a labor orga-  
25                     nization to cease and desist from violations of this

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1 chapter and require it to take any remedial action  
2 the Board considers appropriate to carry out this  
3 chapter; and

4 (F) consistent with the provisions of this  
5 chapter, exercise the functions the Authority has  
6 under chapter 71 of title 5, United States Code,  
7 to the same extent and in the same manner as is  
8 the case with respect to persons subject to chap-  
9 ter 71 of such title.

10 SEC. 1008. FUNCTIONS OF THE GENERAL COUN-  
11 SEL.—The General Counsel may—

12 (1) investigate alleged unfair labor practices under  
13 this chapter,

14 (2) file and prosecute complaints under this chap-  
15 ter, and

16 (3) exercise such other powers of the Board as the  
17 Board may prescribe.

18 SEC. 1009. JUDICIAL REVIEW AND ENFORCEMENT.—

19 (a) Except as provided in section 1014(d), any person ag-  
20 grieved by a final order of the Board may, during the 60-day  
21 period beginning on the date on which the order was issued,  
22 institute an action for judicial review of such order in the  
23 United States Court of Appeals for the District of Columbia,  
24 which shall conduct its review on the same basis as an appeal  
25 from a decision of a District Court.

1 (b) The Board may petition the United States Court of  
2 Appeals for the District of Columbia for the enforcement of  
3 any order of the Board under this chapter and for any appro-  
4 priate temporary relief or restraining order.

5 (c) Subsection (c) of section 7123 of title 5, United  
6 States Code, shall apply to judicial review and enforcement  
7 of actions by the Board in the same manner that it applies to  
8 judicial review and enforcement of actions of the Authority  
9 under chapter 71 of title 5, United States Code.

10 (d) The Board may, upon issuance of a complaint as  
11 provided in section 1016 charging that any person has en-  
12 gaged in or is engaging in an unfair labor practice, petition  
13 the United States District Court for the District of Columbia,  
14 for appropriate temporary relief (including a restraining  
15 order). Upon the filing of the petition, the court shall cause  
16 notice thereof to be served upon the person, and thereupon  
17 shall have jurisdiction to grant any temporary relief (includ-  
18 ing a temporary restraining order) it considers just and  
19 proper. A court shall not grant any temporary relief under  
20 this section if it would interfere with the ability of the De-  
21 partment to carry out its essential functions or if the Board  
22 fails to establish probable cause that an unfair labor practice  
23 is being committed.

24 SEC. 1010. FOREIGN SERVICE IMPASSE DISPUTES  
25 PANEL.—(a) There is established within the Federal Labor

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1 Relations Authority the Foreign Service Impasse Disputes  
2 Panel, which shall assist in resolving negotiating impasses  
3 arising in the course of collective bargaining under this chap-  
4 ter. The Chairperson shall select the Panel from among indi-  
5 viduals the Chairperson considers knowledgeable in labor-  
6 management relations or the conduct of foreign affairs. The  
7 Panel shall be composed of 5 members, as follows:

8           (1) 2 members of the Service (other than a man-  
9           agement official, a confidential employee, or a labor or-  
10          ganization official);

11          (2) one individual employed by the Department of  
12          Labor;

13          (3) one member of the Federal Service Impasses  
14          Panel; and

15          (4) one public member who does not hold any  
16          other office or position in the Government.

17 The Chairperson of the Board shall set the terms of office for  
18 Panel members and determine who shall chair the Panel.

19          (b) Panel members referred to in subsection (a) (3) and  
20 (4) shall receive compensation for each day they are perform-  
21 ing their duties (including traveltime) at the daily equivalent  
22 of the maximum rate payable for grade GS-18 of the Gener-  
23 al Schedule under section 5332 of title 5, United States  
24 Code, except that the member who is also a member of the  
25 Federal Service Impasses Panel shall not be entitled to pay

1 under this subsection for any day for which he or she receives  
2 pay under section 7119(b)(4). Members of the Panel shall be  
3 entitled to travel expenses as provided under section 5703 of  
4 title 5, United States Code.

5 (c)(1) The Panel or its designee shall promptly investi-  
6 gate any impasse presented to it by a party. The Panel shall  
7 consider the impasse and shall either—

8 (A) recommend to the parties to the negotiation  
9 procedures for the resolution of the impasse; or

10 (B) assist the parties in resolving the impasse  
11 through whatever methods and procedures, including  
12 factfinding and recommendations, it may consider ap-  
13 propriate to accomplish the purpose of this section.

14 (2) If the parties do not arrive at a settlement after as-  
15 sistance by the Panel under paragraph (1), the Panel may—

16 (A) hold hearings;

17 (B) administer oaths, take the testimony or depo-  
18 sition of any individual under oath, and issue subpoenas  
19 as provided in section 7132 of title 5, United States  
20 Code; and

21 (C) take whatever action is necessary and not in-  
22 consistent with this chapter to resolve the impasse.

23 (3) Notice of any final action of the Panel under this  
24 section shall be promptly served upon the parties, and the  
25 action shall be binding on such parties during the term of the



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1 collective bargaining agreement unless the parties agree oth-  
2 erwise.

3 SEC. 1011. EXCLUSIVE RECOGNITION.—(a) The De-  
4 partment shall accord exclusive recognition to a labor organi-  
5 zation if the organization has been selected as the representa-  
6 tive, in a secret ballot election, by a majority of the employ-  
7 ees in a unit who cast valid ballots in the election.

8 (b) If a petition is filed with the Board—

9 (1) by any person alleging—

10 (A) in the case of a unit for which there is  
11 no exclusive representative, that 30 percent of the  
12 employees in the unit wish to be represented for  
13 the purpose of collective bargaining by an exclu-  
14 sive representative, or

15 (B) in the case of a unit for which there is an  
16 exclusive representative, that 30 percent of the  
17 employees in the unit alleged that the exclusive  
18 representative is no longer the representative of  
19 the majority of the employees in the unit; or

20 (2) by any person seeking clarification of, or an  
21 amendment to, a certification then in effect or a matter  
22 relating to representation;

23 the Board shall investigate the petition, and if it has reason-  
24 able cause to believe that a question of representation exists,  
25 it shall provide an opportunity for a hearing (for which a

1 transcript shall be kept) after reasonable notice. If the Board  
2 finds on the record of the hearing that a question of represen-  
3 tation exists, the Board shall supervise or conduct an election  
4 on the question by secret ballot and shall certify the results  
5 thereof. An election under this subsection shall not be con-  
6 ducted in any unit within which a valid election under this  
7 subsection has been held during the preceding 12 calendar  
8 months or with respect to which a labor organization has  
9 been certified as the exclusive representative during the pre-  
10 ceding 24 calendar months.

11 (c) A labor organization which—

12 (1) has been designated by at least 10 percent of  
13 the employees in the unit; or

14 (2) is the exclusive representative of the employ-  
15 ees involved;

16 may intervene with respect to a petition filed pursuant to  
17 subsection (b) and shall be placed on the ballot of any election  
18 under subsection (b) with respect to the petition.

19 (d)(1) The Board shall determine who is eligible to vote  
20 in any election under this section and shall establish regula-  
21 tions governing any such election, which shall include regula-  
22 tions allowing employees eligible to vote the opportunity to  
23 choose—

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1 (A) from labor organizations on the ballot, that  
2 labor organization which the employees wish to have  
3 represent them; or

4 (B) not to be represented by a labor organization.

5 (2) In any election in which more than two choices are  
6 on the ballot, the regulations of the Board shall provide for  
7 preferential voting. If no choice receives a majority of first  
8 preferences, the Board shall distribute to the two choices  
9 having the most first preferences the preferences as between  
10 those two of the other valid ballots cast. The choice receiving  
11 a majority of preferences shall be declared the winner. A  
12 labor organization which is declared the winner of the elec-  
13 tion shall be certified by the Board as the exclusive repre-  
14 sentative.

15 (e) A labor organization seeking exclusive recognition  
16 shall submit to the Board and to the Department a roster of  
17 its officers and representatives, a copy of its constitution and  
18 bylaws, and a statement of its objectives.

19 (f) Exclusive recognition shall not be accorded to a labor  
20 organization—

21 (1) if the Board determines that the labor organi-  
22 zation is subject to corrupt influence or influences op-  
23 posed to democratic principles; or

24 (2) in the case of a petition filed under subsection

25 (b)(1)(A), if there is not credible evidence that at least

1       30 percent of the employees wish to be represented for  
2       the purpose of collective bargaining by the labor orga-  
3       nization seeking exclusive recognition.

4       (g) Nothing in this section shall be construed to prohibit  
5       the waiving of hearings by stipulation for the purpose of a  
6       consent election in conformity with regulations and rules or  
7       decisions of the Board.

8       SEC. 1012. EMPLOYEES REPRESENTED.—The em-  
9       ployees of the Department shall constitute a single and sepa-  
10      rate worldwide bargaining unit, from which there shall be  
11      excluded—

12           (1) employees engaged in personnel work in other  
13      than a purely clerical capacity; and

14           (2) employees engaged in criminal or national se-  
15      curity investigations or who audit the work of individ-  
16      uals to insure that their functions are discharged hon-  
17      estly and with integrity.

18      SEC. 1013. REPRESENTATION RIGHTS AND  
19      DUTIES.—(a) A labor organization which has been accorded  
20      exclusive recognition is the exclusive representative of, and is  
21      entitled to act for, and negotiate collective bargaining agree-  
22      ments covering, all employees in the unit described in section  
23      1012. An exclusive representative is responsible for repre-  
24      senting the interests of all employees in that unit without

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1 discrimination and without regard to labor organization mem-  
2 bership.

3 (b)(1) An exclusive representative shall be given the op-  
4 portunity to be represented at—

5 (A) any formal discussion between one or more  
6 representatives of the Department and one or more  
7 employees in the unit (or their representatives), con-  
8 cerning any grievance (as defined in section 1101) or  
9 any personnel policy or practice or other general condi-  
10 tion of employment; and

11 (B) any examination of an employee by a Depart-  
12 ment representative in connection with an investigation  
13 if—

14 (i) the employee reasonably believes that the  
15 examination may result in disciplinary action  
16 against the employee, and

17 (ii) the employee requests such representa-  
18 tion.

19 (2) The Department shall annually inform employees of  
20 their rights under paragraph (1)(B).

21 (c) The Department and the exclusive representative,  
22 through appropriate representatives, shall meet and negotiate  
23 in good faith for the purposes of arriving at a collective bar-  
24 gaining agreement. In addition, the Department and the ex-  
25 clusive representative may determine appropriate techniques,

1 consistent with the provisions of section 1010, to assist in  
2 any negotiation.

3 (d) The rights of an exclusive representative under this  
4 section shall not preclude an employee from—

5 (1) being represented by an attorney or other rep-  
6 resentative of the employee's own choosing, other than  
7 the exclusive representative, in any separation de-  
8 scribed in section 1101(a)(1)(A) or any proceeding re-  
9 lating to such a separation; or

10 (2) exercising grievance or appeal rights estab-  
11 lished by law, rule, or regulation.

12 (e) The duty of the Department and the exclusive repre-  
13 sentative to negotiate in good faith shall include the obliga-  
14 tion—

15 (1) to approach the negotiations with a sincere re-  
16 solve to reach a collective bargaining agreement;

17 (2) to be represented at the negotiations by duly  
18 authorized representatives prepared to discuss and ne-  
19 gotiate on any condition of employment;

20 (3) to meet at reasonable times and convenient  
21 places as frequently as may be necessary and to avoid  
22 unnecessary delays;

23 (4) for the Department to furnish to the exclusive  
24 representative, or its authorized representative, upon  
25 request and to the extent not prohibited by law, data—

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1 (A) which is normally maintained by the De-  
2 partment in the regular course of business;

3 (B) which is reasonably available and neces-  
4 sary for full and proper discussion, understanding,  
5 and negotiation of subjects within the scope of  
6 collective bargaining; and

7 (C) which does not constitute guidance,  
8 advice, counsel, or training provided for manage-  
9 ment officials or confidential employees, relating  
10 to collective bargaining;

11 (5) to negotiate jointly with respect to conditions  
12 of employment applicable to employees in more than  
13 one of the agencies authorized to utilize the Foreign  
14 Service personnel system, as determined by the heads  
15 of such agencies; and

16 (6) if agreement is reached, to execute, upon the  
17 request of any party to the negotiation, a written docu-  
18 ment embodying the agreed terms, and to take the  
19 steps necessary to implement the agreement.

20 (f)(1) An agreement between the Department and the  
21 exclusive representative shall be subject to approval by the  
22 Secretary.

23 (2) The Secretary shall approve the agreement within  
24 30 days after the date of the agreement unless the Secretary

1 finds in writing that the agreement is contrary to applicable  
2 law, rule, or regulation.

3 (3) Unless the Secretary disapproves the agreement by  
4 making a finding under paragraph (2), the agreement shall  
5 take effect after 30 days from its execution and shall be bind-  
6 ing on the Department and the exclusive representative sub-  
7 ject to all applicable laws, orders, and regulations.

8 (g) The Department shall consult with the exclusive  
9 representative with respect to Government-wide or multi-  
10 agency matters affecting the rights, benefits, or obligations of  
11 individuals employed in agencies not authorized to utilize the  
12 Foreign Service personnel system. The exclusive representa-  
13 tive shall be informed of any change proposed by the Depart-  
14 ment with respect to such matters, and shall be permitted  
15 reasonable time to present its views and recommendations  
16 regarding such change. The Department shall consider the  
17 views and recommendations of the exclusive representative  
18 before taking final action on any such change, and shall pro-  
19 vide the exclusive representative a written statement of the  
20 reasons for taking the final action.

21 SEC. 1014. RESOLUTION OF IMPLEMENTATION DIS-  
22 PUTES.—(a) Any dispute between the Department and the  
23 exclusive representative concerning the effect, interpretation,  
24 or a claim of breach of a collective bargaining agreement  
25 shall be resolved through procedures negotiated by the De-



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1 partment and the exclusive representative. Any procedures  
2 negotiated under this section shall—

3 (1) be fair and simple,

4 (2) provide for expeditious processing, and

5 (3) include provision for appeal to the Foreign  
6 Service Grievance Board by either party of any dispute  
7 not satisfactorily settled.

8 (b) Either party to an appeal under subsection (a)(3)  
9 may file with the Board an exception to the action of the  
10 Foreign Service Grievance Board in resolving the implemen-  
11 tation dispute. If, upon review, the Board finds that the  
12 action is deficient—

13 (1) because it is contrary to any law, rule, or reg-  
14 ulation; or

15 (2) on other grounds similar to those applied by  
16 Federal courts in private sector labor-management re-  
17 lations;

18 the Board may take such action and make such recommenda-  
19 tions concerning the Foreign Service Grievance Board action  
20 as it considers necessary, consistent with applicable laws,  
21 rules, and regulations.

22 (c) If no exception to a Foreign Service Grievance  
23 Board action is filed under subsection (b) within 30 days after  
24 such action is communicated to the parties, such action shall

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1 become final and binding and shall be implemented by the  
2 parties.

3 (d) Resolutions of disputes under this section shall not  
4 be subject to judicial review.

5 SEC. 1015. UNFAIR LABOR PRACTICES.—(a) It shall  
6 be an unfair labor practice for the Department—

7 (1) to interfere with, restrain, or coerce any em-  
8 ployee in the exercise by the employee of any right  
9 under this chapter;

10 (2) to encourage or discourage membership in any  
11 labor organization by discrimination in connection with  
12 hiring, tenure, promotion, or other conditions of em-  
13 ployment;

14 (3) to sponsor, control, or otherwise assist any  
15 labor organization, other than to furnish upon request  
16 customary and routine services and facilities on an im-  
17 partial basis to labor organizations having equivalent  
18 status;

19 (4) to discipline or otherwise discriminate against  
20 an employee because the employee has filed a com-  
21 plaint or petition, or has given any information, affida-  
22 vit, or testimony under this chapter;

23 (5) to refuse to consult or negotiate in good faith  
24 with a labor organization, as required under this chap-  
25 ter;

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1           (6) to fail or refuse to cooperate in impasse proce-  
2           dures and impasse decisions, as required under this  
3           chapter;

4           (7) to enforce any rule or regulation (other than a  
5           rule or regulation implementing section 2302 of title 5,  
6           United States Code) which is in conflict with an appli-  
7           cable collective bargaining agreement if the agreement  
8           was in effect before the date the rule or regulation was  
9           prescribed; or

10          (8) to fail or refuse otherwise to comply with any  
11          provision of this chapter.

12          (b) It shall be an unfair labor practice for a labor organi-  
13          zation—

14               (1) to interfere with, restrain, or coerce any em-  
15               ployee in the exercise by the employee of any right  
16               under this chapter;

17               (2) to cause or attempt to cause the Department  
18               to discriminate against any employee in the exercise by  
19               the employee of any right under this chapter;

20               (3) to coerce, discipline, fine, or attempt to coerce  
21               a member of the labor organization as punishment or  
22               reprisal, or for the purpose of hindering or impeding  
23               the member's work performance or productivity as an  
24               employee or the discharge of the member's functions as  
25               an employee;

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1           (4) to discriminate against an employee with  
2           regard to the terms and conditions of membership in  
3           the labor organization on the basis of race, color,  
4           creed, national origin, sex, age, preferential or nonpref-  
5           erential civil service status, political affiliation, marital  
6           status, or handicapping condition;

7           (5) to refuse to consult or negotiate in good faith  
8           with the Department, as required under this chapter;

9           (6) to fail or refuse to cooperate in impasse proce-  
10          dures and impasse decisions, as required under this  
11          chapter;

12          (7)(A) to call, or participate in, a strike, work  
13          stoppage, or slowdown, or to picket the operations of  
14          the Department, but informational picketing in the  
15          United States which does not interfere with such oper-  
16          ations shall not be considered an unfair labor practice;  
17          and

18          (B) to condone any unfair labor practice described  
19          in subparagraph (A) by failing to take action to prevent  
20          or stop such activity;

21          (8) to deny membership to any employee in the  
22          unit represented by the labor organization except—

23                (A) for failure to tender dues uniformly re-  
24                quired as a condition of acquiring and retaining  
25                membership, or

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1 (B) in the exercise of disciplinary procedures  
2 consistent with the organization's constitution or  
3 bylaws and this chapter; or  
4 (9) to fail or refuse otherwise to comply with any  
5 provision of this chapter.

6 (c) The expression of any personal view, argument, or  
7 opinion, or the making of any statement, which—

8 (1) publicizes the fact of a representational elec-  
9 tion and encourages employees to exercise their right  
10 to vote in such an election;

11 (2) corrects the record with respect to any false or  
12 misleading statement made by any person; or

13 (3) informs employees of the Government's policy  
14 relating to labor-management relations and representa-  
15 tion,

16 if the expression contains no threat of reprisal or force or  
17 promise of benefit and was not made under coercive condi-  
18 tions shall not—

19 (A) constitute an unfair labor practice under this  
20 chapter, or

21 (B) constitute grounds for the setting aside of any  
22 election conducted under this chapter.

23 (d) Issues which can properly be raised under an appeals  
24 procedure may not be raised as unfair labor practices prohib-  
25 ited under this section. Except for matters wherein, under

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1 section 1109(b), an employee has an option of using the  
2 grievance procedure under chapter 11 or an appeals proce-  
3 dure, issues which can be raised under section 1014 or chap-  
4 ter 11 may, in the discretion of the aggrieved party, be raised  
5 either under such section or chapter or else raised as an  
6 unfair labor practice under this section, but may not be raised  
7 both under this section and under section 1014 or chapter 11.

8 SEC. 1016. PREVENTION OF UNFAIR LABOR PRAC-  
9 TICES.—(a) If the Department or labor organization is  
10 charged by any person with having engaged in or engaging in  
11 an unfair labor practice, the General Counsel shall investi-  
12 gate the charge and may issue and cause to be served upon  
13 the Department or labor organization a complaint. In any  
14 case in which the General Counsel does not issue a complaint  
15 because the charge fails to state an unfair labor practice, the  
16 General Counsel shall provide the person making the charge  
17 a written statement of the reasons for not issuing a com-  
18 plaint.

19 (b) Any complaint under subsection (a) shall contain a  
20 notice—

21 (1) of the charge;

22 (2) that a hearing will be held before the Board

23 (or any member thereof or before an individual em-

24 ployed by the Board and designated for such purpose);

25 and

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1           (3) of the time and place fixed for the hearing.

2           (c) The labor organization or Department involved shall  
3 have the right to file an answer to the original and any  
4 amended complaint and to appear in person or otherwise and  
5 give testimony at the time and place fixed in the complaint  
6 for the hearing.

7           (d)(1) Except as provided in paragraph (2), no complaint  
8 shall be issued based on any alleged unfair labor practice  
9 which occurred more than 6 months before the filing of the  
10 charge with the Board.

11          (2) If the General Counsel determines that the person  
12 filing any charge was prevented from filing the charge during  
13 the 6-month period referred to in paragraph (1) by reason  
14 of—

15           (A) any failure of the Department or labor organi-  
16 zation against which the charge is made to perform a  
17 duty owed to the person, or

18           (B) any concealment which prevented discovery of  
19 the alleged unfair labor practice during the 6-month  
20 period,

21 the General Counsel may issue a complaint based on the  
22 charge if the charge was filed during the 6-month period be-  
23 ginning on the day of the discovery by the person of the  
24 alleged unfair labor practice.

1 (e) The General Counsel may prescribe regulations pro-  
2 viding for informal methods by which the alleged unfair labor  
3 practice may be resolved prior to the issuance of a complaint.

4 (f) The Board (or any member thereof or any individual  
5 employed by the Board and designated for such purpose)  
6 shall conduct a hearing on the complaint not earlier than 5  
7 days after the date on which the complaint is served. In the  
8 discretion of the individual or individuals conducting the  
9 hearing, any person involved may be allowed to intervene in  
10 the hearing and to present testimony. Any such hearing  
11 shall, to the extent practicable, be conducted in accordance  
12 with the provisions of subchapter II of chapter 5 of title 5,  
13 United States Code, except that the parties shall not be  
14 bound by rules of evidence, whether statutory, common law,  
15 or adopted by a court. A transcript shall be kept of the hear-  
16 ing. After such a hearing the Board, in its discretion, may  
17 upon notice receive further evidence or hear argument.

18 (g) If the Board (or any member thereof or any individ-  
19 ual employed by the Board and designated for such purpose)  
20 determines after any hearing on a complaint under subsection  
21 (f) that the preponderance of the evidence received demon-  
22 strates that the Department or labor organization named in  
23 the complaint has engaged in or is engaging in an unfair  
24 labor practice, then the individual or individuals conducting  
25 the hearing shall state in writing their findings of fact and



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1 shall issue and cause to be served on the Department or labor  
2 organization an order—

3 (1) to cease and desist from any such unfair labor  
4 practice in which the Department or labor organization  
5 is engaged;

6 (2) requiring the parties to renegotiate a collective  
7 bargaining agreement in accordance with the order of  
8 the Board and requiring that the agreement, as amend-  
9 ed, be given retroactive effect;

10 (3) requiring reinstatement of an employee with  
11 backpay in accordance with section 5596 of title 5,  
12 United States Code; or

13 (4) including any combination of the actions de-  
14 scribed in paragraphs (1) through (3) or such other  
15 action as will carry out the purpose of this chapter.

16 If any such order requires reinstatement of an employee with  
17 backpay, backpay may be required of the Department (as  
18 provided in section 5596 of title 5, United States Code) or of  
19 the labor organization, as the case may be, which is found to  
20 have engaged in the unfair labor practice involved.

21 (h) If the individual or individuals conducting the hear-  
22 ing determine that the preponderance of the evidence re-  
23 ceived fails to demonstrate that the Department or labor or-  
24 ganization named in the complaint has engaged in or is en-  
25 gaging in an unfair labor practice, the individual or individ-

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1 uals shall state in writing their findings of fact and shall issue  
2 an order dismissing the complaint.

3 SEC. 1017. STANDARDS OF CONDUCT FOR LABOR OR-  
4 GANIZATIONS.—(a) The Department shall accord recognition  
5 only to a labor organization that is free from corrupt influ-  
6 ences and influences opposed to basic democratic principles.  
7 Except as provided in subsection (b), an organization is not  
8 required to prove that it is free from such influences if it is  
9 subject to a governing requirement adopted by the organiza-  
10 tion or by a national or international labor organization or  
11 federation of labor organizations with which it is affiliated, or  
12 in which it participates, containing explicit and detailed pro-  
13 visions to which it subscribes calling for—

14 (1) the maintenance of democratic procedures and  
15 practices, including—

16 (A) provisions for periodic elections to be  
17 conducted subject to recognized safeguards, and

18 (B) provisions defining and securing the right  
19 of individual members to participate in the affairs  
20 of the organization, to receive fair and equal  
21 treatment under the governing rules of the organi-  
22 zation, and to receive fair process in disciplinary  
23 proceedings;

24 (2) the exclusion from office in the organization of  
25 persons affiliated with Communist or other totalitarian

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1 movements and persons identified with corrupt influ-  
2 ences;

3 (3) the prohibition of business or financial interests  
4 on the part of organization officers and agents which  
5 conflict with their duty to the organization and its  
6 members; and

7 (4) the maintenance of fiscal integrity in the con-  
8 duct of the affairs of the organization, including provi-  
9 sions for accounting and financial controls and regular  
10 financial reports or summaries to be made available to  
11 members.

12 (b) A labor organization may be required to furnish evi-  
13 dence of its freedom from corrupt influences opposed to basic  
14 democratic principles if there is reasonable cause to believe  
15 that—

16 (1) the organization has been suspended or ex-  
17 pelled from, or is subject to other sanction by, a parent  
18 labor organization, or federation of organizations with  
19 which it has been affiliated, because it has demonstrat-  
20 ed an unwillingness or inability to comply with govern-  
21 ing requirements comparable in purpose to those re-  
22 quired by subsection (a); or

23 (2) the organization is in fact subject to influences  
24 that would preclude recognition under this chapter.

1 (c) A labor organization which has or seeks recognition  
2 as a representative of employees under this chapter shall file  
3 financial and other reports with the Assistant Secretary of  
4 Labor for Labor Management Relations, provide for bonding  
5 of officials and others employed by the organization, and  
6 comply with trusteeship and election standards.

7 (d) The Assistant Secretary of Labor shall prescribe  
8 such regulations as are necessary to carry out this section.  
9 Such regulations shall conform generally to the principles ap-  
10 plied to labor organizations in the private sector. Complaints  
11 of violations of this section shall be filed with the Assistant  
12 Secretary. In any matter arising under this section, the As-  
13 sistant Secretary may require a labor organization to cease  
14 and desist from violations of this section and require it to take  
15 such actions as the Assistant Secretary considers appropriate  
16 to carry out the policies of this section.

17 (e) This chapter does not authorize participation in the  
18 management of a labor organization or acting as a repre-  
19 sentative of a labor organization by a management official, a  
20 confidential employee, or any other employee if the participa-  
21 tion or activity would result in a conflict or apparent conflict  
22 of interest or would otherwise be incompatible with law or  
23 with the official functions of such management official or such  
24 employee.

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1 (f) If the Board finds that any labor organization has  
2 wilfully and intentionally violated section 1015(b)(7) by omis-  
3 sion or commission with regard to any strike, work stoppage,  
4 slowdown, the Board shall—

5 (1) revoke the exclusive recognition status of the  
6 labor organization, which shall then immediately cease  
7 to be legally entitled and obligated to represent em-  
8 ployees in the unit; or

9 (2) take any other appropriate disciplinary action.

10 SEC. 1018. ADMINISTRATIVE PROVISIONS.—(a) If the  
11 Department has received from any individual a written as-  
12 signment which authorizes the Department to deduct from  
13 the salary of that individual amounts for the payment of regu-  
14 lar and periodic dues of the exclusive representative, the De-  
15 partment shall honor the assignment. Any such assignment  
16 shall be made at no cost to the exclusive representative or  
17 the individual. Except as provided in subsection (b), any such  
18 assignment may not be revoked for a period of one year from  
19 its execution.

20 (b) An assignment for deduction of dues shall terminate  
21 when—

22 (1) the labor organization ceases to be the exclu-  
23 sive representative;

24 (2) the individual ceases to receive a salary from  
25 the Department as a member of the Service; or

1           (3) the individual is suspended or expelled from  
2           membership in the exclusive representative.

3           (c) During any period when no labor organization is cer-  
4           tified as the exclusive representative of employees in the De-  
5           partment, the Department shall have the duty to negotiate  
6           with a labor organization which has filed a petition under  
7           section 1011(b)(1)(A) alleging that 10 percent of the employ-  
8           ees in the Department have membership in the organization  
9           if the Board has determined that the petition is valid. Negoti-  
10          ations under this subsection shall be concerned solely with  
11          the deduction of dues of the labor organization from the  
12          salary of the individuals who are members of the labor orga-  
13          nization and who make a voluntary allotment for that pur-  
14          pose. Any agreement between the Department and a labor  
15          organization under this subsection shall terminate upon the  
16          certification of an exclusive representative of any employees  
17          to whom the agreement applies.

18          (d) The following provisions shall apply to the use of  
19          official time:

20               (1) Any employee representing an exclusive repre-  
21               sentative in the negotiation of a collective bargaining  
22               agreement under this chapter shall be authorized offi-  
23               cial time for such purposes, including attendance at im-  
24               passe proceedings, during the time the employee other-  
25               wise would be in a duty status. The number of employ-

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1       ees for whom official time is authorized under this  
2       paragraph shall not exceed the number of individuals  
3       designated as representing the Department for such  
4       purposes.

5           (2) Any activities performed by any employee re-  
6       lating to the internal business of the labor organization,  
7       including the solicitation of membership, elections of  
8       labor organization officials, and collection of dues, shall  
9       be performed during the time the employee is in a non-  
10      duty status.

11          (3) Except as provided in paragraph (1), the  
12      Board shall determine whether any employee partici-  
13      pating for, or on behalf of, a labor organization in any  
14      phase of proceedings before the Board shall be author-  
15      ized official time for such purpose during the time the  
16      employee would otherwise be in a duty status.

17          (4) Except as provided in paragraphs (1), (2), and  
18      (3), any employee representing an exclusive repre-  
19      sentative, or engaged in any other matter covered by  
20      this chapter, shall be granted official time in any  
21      amount the Department and the exclusive representa-  
22      tive agree to be reasonable, necessary, and in the  
23      public interest.

1 CHAPTER 11—GRIEVANCES

2 SEC. 1101. DEFINITION OF GRIEVANCE.—(a)(1)

3 Except as provided in subsection (b), for purposes of this  
4 chapter, the term “grievance” means any act, omission, or  
5 condition subject to the control of the Secretary which is al-  
6 leged to deprive a member of the Service who is a citizen of  
7 the United States of a right or benefit authorized by law or  
8 regulation or which is otherwise a source of concern or dis-  
9 satisfaction to the member, including—

10 (A) separation of the member allegedly contrary  
11 to laws or regulations, or predicated upon alleged inac-  
12 curacy, omission, error, or falsely prejudicial character  
13 of information in any part of the official personnel  
14 record of the member;

15 (B) other alleged violation, misinterpretation, or  
16 misapplication of applicable laws, regulations, or pub-  
17 lished policy affecting the terms and conditions of the  
18 employment or career status of the member;

19 (C) allegedly wrongful disciplinary action against  
20 the member;

21 (D) dissatisfaction with respect to the working en-  
22 vironment of the member;

23 (E) alleged inaccuracy, omission, error, or falsely  
24 prejudicial character of information in the official per-



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1 sonnel record of the member which is or could be prej-  
2 udicial to the member;

3 (F) action alleged to be in the nature of reprisal  
4 or other interference with freedom of action in connec-  
5 tion with participation by the member in procedures  
6 under this chapter; and

7 (G) alleged denial of an allowance, premium pay,  
8 or other financial benefit to which the member claims  
9 entitlement under applicable laws or regulations.

10 (2) The scope of grievances described in paragraph (1)  
11 may be modified by written agreement between the Depart-  
12 ment and the labor organization accorded recognition as the  
13 exclusive representative under chapter 10 (hereinafter in this  
14 chapter referred to as the "exclusive representative").

15 (b) For purposes of this chapter, the term "grievance"  
16 does not include—

17 (1) an individual assignment of a member under  
18 chapter 5, other than an assignment alleged to be con-  
19 trary to law or regulation;

20 (2) the judgment of a selection board established  
21 under section 602, a tenure board established under  
22 section 306(b), or any other equivalent body estab-  
23 lished by laws or regulations which similarly evaluates  
24 the performance of members of the Service on a com-  
25 parative basis;

1           (3) the expiration of a limited appointment, the  
2           termination of a limited appointment under section  
3           611, or the denial of a limited career extension or of a  
4           renewal of a limited career extension under section  
5           607(b); or

6           (4) any complaint or appeal where a specific stat-  
7           utory hearing procedure exists, except as provided in  
8           section 1109(b).

9           (c) This chapter applies only with respect to the Depart-  
10          ment of State, the International Communication Agency, the  
11          United States International Development Cooperation  
12          Agency, the Department of Agriculture, and the Department  
13          of Commerce.

14          SEC. 1102. GRIEVANCES CONCERNING FORMER MEM-  
15          BERS.—Within the time limitations of section 1104, a former  
16          member of the Service or the surviving spouse (or, if none,  
17          another member of the family) of a deceased member or  
18          former member of the Service may file a grievance under this  
19          chapter only with respect to allegations described in section  
20          1101(a)(1)(G).

21          SEC. 1103. FREEDOM OF ACTION.—(a) Any individual  
22          filing a grievance under this chapter (hereinafter in this chap-  
23          ter referred to as the “grievant”), and any witness, labor  
24          organization, or other person involved in a grievance pro-  
25          ceeding, shall be free from any restraint, interference, coer-

1 cion, harassment, discrimination, or reprisal in those proceed-  
2 ings or by virtue of them.

3 (b)(1) Except with respect to grievances described in  
4 section 1101(a)(1)(A), a grievant who is a member of a bar-  
5 gaining unit represented by an exclusive representative shall  
6 be represented at every stage of the proceedings only if rep-  
7 resented by that exclusive representative. Such a grievant  
8 has the right to represent himself or herself under depart-  
9 mental procedures with respect to a grievance; however, the  
10 exclusive representative shall have the right to be present  
11 during the grievance proceedings.

12 (2) Any grievant who is not a member of a bargaining  
13 unit, or whose grievance is described in section  
14 1101(a)(1)(A), has the right at every stage of the proceedings  
15 to representation of his or her own choosing.

16 (3) The grievant, and any representative of the grievant  
17 who is a member of the Service or employee of the Depart-  
18 ment, shall be granted reasonable periods of administrative  
19 leave to prepare and present the grievance and to attend pro-  
20 ceedings under this chapter.

21 (c) Any witness who is a member of the Service or em-  
22 ployee of the Department shall be granted reasonable periods  
23 of administrative leave to appear and testify at any proceed-  
24 ings under this chapter.

25 (d)(1) No record of—

1 (A) a determination by the Secretary to reject a  
2 recommendation of the Foreign Service Grievance  
3 Board,

4 (B) a finding by the Grievance Board against the  
5 grievant, or

6 (C) the fact that a grievance proceeding is pend-  
7 ing or has been held,

8 shall be entered in the personnel records of the grievant  
9 (except by order of the Grievance Board as a remedy for the  
10 grievance) or those of any other individual connected with  
11 the grievance.

12 (2) The Department shall maintain records pertaining to  
13 grievances under appropriate safeguards to preserve confi-  
14 dentiality.

15 (3) The Foreign Service Grievance Board may enforce  
16 compliance with the requirements of paragraphs (1) and (2).

17 (e) The Department will use its best endeavors to expe-  
18 dite security clearance procedures whenever necessary to  
19 assure a fair and prompt resolution of a grievance.

20 SEC. 1104. TIME LIMITATIONS.—(a) A grievance is  
21 forever barred unless it is filed with the Department within a  
22 period of 3 years after the occurrence or occurrences giving  
23 rise to the grievance or such shorter period as may be agreed  
24 to by the Department and the exclusive representative.  
25 There shall be excluded from the computation of any such

1 period any time during which, as determined by the Foreign.  
2 Service Grievance Board, the grievant was unaware of the  
3 grounds for the grievance and could not have discovered such  
4 grounds through reasonable diligence.

5 (b) If a grievance is not resolved under Department pro-  
6 cedures (which have been negotiated with the exclusive rep-  
7 resentative, if any) within ninety days after it is filed with the  
8 Department, the exclusive representative (on behalf of a  
9 grievant who is a member of the bargaining unit) or a griev-  
10 ant who is not a member of such bargaining unit or whose  
11 grievance is described in section 1101(a)(1)(A) shall be enti-  
12 tled to file a grievance with the Foreign Service Grievance  
13 Board for its consideration and resolution.

14 SEC. 1105. FOREIGN SERVICE GRIEVANCE BOARD.—

15 (a) There is established the Foreign Service Grievance Board  
16 (hereinafter in this chapter referred to as the "Board"). The  
17 Board shall consist of no fewer than 5 members who shall be  
18 independent, distinguished citizens of the United States, well  
19 known for their integrity, who are not employees of the De-  
20 partment or members of the Service.

21 (b) The Chairperson and other members of the Board  
22 shall be appointed by the Secretary of State, from nominees  
23 approved in writing by the agencies to which this chapter  
24 applies and the exclusive representative (if any) for each such  
25 agency. Each member of the Board shall be appointed for a

1 term of 2 years, subject to renewal with the same written  
2 approvals required for initial appointment. In the event of a  
3 vacancy on the Board, an appointment for the unexpired  
4 term may be made by the Secretary of State in accordance  
5 with the procedures specified in this section. In the event of  
6 inability to obtain agreement on a nominee, each such agency  
7 and exclusive representative shall select 2 nominees and  
8 shall, in an order determined by lot, in turn strike a name  
9 from a list of such nominees until only one name remains.

10 (c) Members of the Board who are not employees of the  
11 Government shall be paid for each day they are performing  
12 their duties (including traveltime) at the daily equivalent of  
13 the maximum rate payable for grade GS-18 of the General  
14 Schedule under section 5332 of title 5, United States Code.

15 (d) The Secretary of State may, upon written notice,  
16 remove a Board member for corruption, neglect of duty, mal-  
17 feasance, or demonstrated incapacity to perform his or her  
18 functions, established at a hearing (unless the right to a hear-  
19 ing is waived in writing by the Board member).

20 (e) The Board may obtain facilities, services, and sup-  
21 plies through the general administrative services of the De-  
22 partment of State. All expenses of the Board, including nec-  
23 essary costs of the travel and travel-related expenses of a  
24 grievant, shall be paid out of funds appropriated to the De-  
25 partment of State for obligation and expenditure by the

1 Board. At the request of the Board, employees of the Depart-  
2 ment and members of the Service may be assigned as staff  
3 employees for the Board. Within the limits of appropriated  
4 funds, the Board may appoint and fix the compensation of  
5 such other employees as the Board considers necessary to  
6 carry out its functions. The individuals so appointed or as-  
7 signed shall be responsible solely to the Board, and the Board  
8 shall prepare the performance evaluation reports for such in-  
9 dividuals. The records of the Board shall be maintained by  
10 the Board and shall be separate from all other records of the  
11 Department of State under appropriate safeguards to pre-  
12 serve confidentiality.

13 SEC. 1106. BOARD PROCEDURES.—The Board may  
14 adopt regulations concerning its organization and procedures.  
15 Such regulations shall include provision for the following:

16 (1) The Board shall conduct a hearing at the re-  
17 quest of a grievant in any case which involves—

18 (A) disciplinary action or the retirement of a  
19 grievant from the Service under section 607 or  
20 608, or

21 (B) issues which, in the judgment of the  
22 Board, can best be resolved by a hearing or pres-  
23 entation of oral argument.

24 (2) The grievant, the representatives of the griev-  
25 ant, the exclusive representative (if the grievant is a

1 member of the bargaining unit represented by the ex-  
2 clusive representative), and the representatives of the  
3 Department are entitled to be present at the hearing.  
4 The Board may, after considering the views of the par-  
5 ties and any other individuals connected with the  
6 grievance, decide that a hearing should be open to  
7 others. Testimony at a hearing shall be given under  
8 oath, which any Board member or individual designat-  
9 ed by the Board shall have authority to administer.

10 (3) Each party shall be entitled to examine and  
11 cross-examine witnesses at the hearing or by deposi-  
12 tion and to serve interrogatories upon another party  
13 and have such interrogatories answered by the other  
14 party unless the Board finds such interrogatory irrele-  
15 vant, immaterial, or unduly repetitive. Upon request of  
16 the Board, or upon a request of the grievant deemed  
17 relevant and material by the Board, an agency shall  
18 promptly make available at the hearing or by deposi-  
19 tion any witness under its control, supervision, or re-  
20 sponsibility, except that if the Board determines that  
21 the presence of such witness at the hearing is required  
22 for just resolution of the grievance, then the witness  
23 shall be made available at the hearing, with necessary  
24 costs and travel expenses paid by the Department of  
25 State.



1           (4) During any hearing held by the Board, any  
2 oral or documentary evidence may be received, but the  
3 Board shall exclude any irrelevant, immaterial, or  
4 unduly repetitious evidence, as determined under sec-  
5 tion 556 of title 5, United States Code.

6           (5) A verbatim transcript shall be made of any  
7 hearing and shall be part of the record of proceedings.

8           (6) In those grievances in which the Board does  
9 not hold a hearing, the Board shall afford to each party  
10 the opportunity to review and to supplement, by writ-  
11 ten submissions, the record of proceedings prior to the  
12 decision by the Board. The decision of the Board shall  
13 be based exclusively on the record of proceedings.

14           (7) The Board may act by or through panels or  
15 individual members designated by the Chairperson,  
16 except that hearings within the continental United  
17 States shall be held by panels of at least three mem-  
18 bers unless the parties agree otherwise. References in  
19 this chapter to the Board shall be considered to be ref-  
20 erences to a panel or member of the Board where ap-  
21 propriate. All members of the Board shall act as im-  
22 partial individuals in considering grievances.

23           (8) If the Board determines that the Department  
24 is considering the involuntary separation of the griev-  
25 ant, disciplinary action against the grievant, or recov-

1       ery from the grievant of alleged overpayment of salary,  
2       expenses, or allowances, which is related to a griev-  
3       ance pending before the Board and that such action  
4       should be suspended, the Department shall suspend  
5       such action until the Board has ruled upon the griev-  
6       ance. Notwithstanding such suspension of action, the  
7       head of the agency concerned or a chief of mission or  
8       principal officer may exclude the grievant from official  
9       premises or from the performance of specified functions  
10      when such exclusion is determined in writing to be es-  
11      sential to the functioning of the post or office to which  
12      the grievant is assigned.

13           (9) The Board may reconsider any decision upon  
14      presentation of newly discovered or previously unavail-  
15      able material evidence.

16      SEC. 1107. BOARD DECISIONS.—(a) Upon completion  
17      of its proceedings, the Board shall expeditiously decide the  
18      grievance on the basis of the record of proceedings. In each  
19      case the decision of the Board shall be in writing, and shall  
20      include findings of fact and a statement of the reasons for the  
21      decision of the Board.

22           (b) If the Board finds that the grievance is meritorious,  
23      the Board shall have the authority to direct the Depart-  
24      ment—

1           (1) to correct any official personnel record relating  
2           to the grievant which the Board finds to be inaccurate  
3           or erroneous, to have an omission, or to contain infor-  
4           mation of a falsely prejudicial character;

5           (2) to reverse a decision denying the grievant  
6           compensation or any other perquisite of employment  
7           authorized by laws or regulations when the Board finds  
8           that such decision was arbitrary, capricious, or con-  
9           trary to laws or regulations;

10          (3) to retain in the Service a member whose sepa-  
11          ration would be in consequence of the matter by which  
12          the member is aggrieved;

13          (4) to reinstate the grievant, and to grant the  
14          grievant back pay in accordance with section  
15          5596(b)(1) of title 5, United States Code;

16          (5) to pay reasonable attorney fees to the grievant  
17          to the same extent and in the same manner as such  
18          fees may be required by the Merit Systems Protection  
19          Board under section 7701(g) of title 5, United States  
20          Code; and

21          (6) to take such other remedial action as may be  
22          appropriate under procedures agreed to by the Depart-  
23          ment and the exclusive representative (if any).

1       (c) Except as provided in subsection (d), decisions of the  
2 Board under this chapter shall be final, subject only to judi-  
3 cial review as provided in section 1110.

4       (d) If the Board finds that the grievance is meritorious  
5 and that remedial action should be taken that relates directly  
6 to promotion or assignment of the grievant or to other reme-  
7 dial action not otherwise provided for in this section, or if the  
8 Board finds that the evidence before it warrants disciplinary  
9 action against any employee of the Department or member of  
10 the Service, it shall make an appropriate recommendation to  
11 the Secretary. The Secretary shall make a written decision  
12 on the recommendation of the Board within 30 days after  
13 receiving the recommendation. The Secretary shall imple-  
14 ment the recommendation of the Board except to the extent  
15 that, in a decision made within that 30-day period, the Secre-  
16 tary rejects the recommendation in whole or in part on the  
17 basis of a determination that implementation of the recom-  
18 mendation would be contrary to law or would adversely  
19 affect the foreign policy or security of the United States. If  
20 the Secretary rejects the recommendation in whole or in part,  
21 the decision shall specify the reasons for such action. Pending  
22 the decision of the Secretary, there shall be no ex parte com-  
23 munication concerning the grievance between the Secretary  
24 and any person involved in the proceedings of the Board. The

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1 Secretary shall, however, have access to the entire record of  
2 the proceedings of the Board.

3 SEC. 1108. ACCESS TO RECORDS.—(a) If a grievant is  
4 denied access to any agency record prior to or during the  
5 consideration of the grievance by the Department, the griev-  
6 ant may raise such denial before the Board in connection  
7 with the grievance.

8 (b) In considering a grievance, the Board shall have  
9 access to any agency record as follows:

10 (1)(A) The Board shall request access to any  
11 agency record which the grievant requests to substanti-  
12 ate the grievance if the Board determines that such  
13 record may be relevant and material to the grievance.

14 (B) The Board may request access to any other  
15 agency record which the Board determines may be rel-  
16 evant and material to the grievance.

17 (2) Any agency shall make available to the Board  
18 any agency record requested under paragraph (1)  
19 unless the head or deputy head of such agency person-  
20 ally certifies in writing to the Board that disclosure of  
21 the record to the Board and the grievant would ad-  
22 versely affect the foreign policy or national security of  
23 the United States or that such disclosure is prohibited  
24 by law. If such a certification is made with respect to  
25 any record, the agency shall supply to the Board a

1 summary or extract of such record unless the reasons  
2 specified in the preceding sentence preclude such a  
3 summary or extract.

4 (c) If the Board determines that an agency record, or a  
5 summary or extract of a record, made available to the Board  
6 under subsection (b) is relevant and material to the grievance,  
7 the agency concerned shall make such record, summary, or  
8 extract, as the case may be, available to the grievant.

9 (d) In considering a grievance, the Board may take into  
10 account the fact that the grievant or the Board was denied  
11 access to an agency record which the Board determines is or  
12 may be relevant and material to the grievance.

13 (e) The grievant in any case decided by the Board shall  
14 have access to the record of the proceedings and the decision  
15 of the Board.

16 SEC. 1109. RELATIONSHIP TO OTHER REMEDIES.—

17 (a) A grievant may not file a grievance with the Board if the  
18 grievant has formally requested, prior to filing a grievance,  
19 that the matter or matters which are the basis of the griev-  
20 ance be considered or resolved and relief be provided under  
21 another provision of law, regulation, or Executive order,  
22 other than under section 1206 of title 5, United States Code,  
23 and the matter has been carried to final decision under such  
24 provision on its merits or is still under consideration.

1 (b) If a grievant is not prohibited from filing a grievance  
2 under subsection (a), the grievant may file with the Board a  
3 grievance which is also eligible for consideration, resolution,  
4 and relief under chapter 12 of title 5, United States Code, or  
5 a regulation or Executive order other than under this chap-  
6 ter. Such an election of remedies under this section shall be  
7 final upon the acceptance of jurisdiction by the Board.

8 SEC. 1110. JUDICIAL REVIEW.—Any aggrieved party  
9 may obtain judicial review of a final action of the Secretary  
10 or the Board on any grievance in the district courts of the  
11 United States in accordance with the standards set forth in  
12 chapter 7 of title 5, United States Code. Section 706 of title  
13 5, United States Code, shall apply without limitation or ex-  
14 ception.

15 TITLE II—TRANSITION, AMENDMENTS TO OTHER  
16 LAWS, AND MISCELLANEOUS PROVISIONS

17 CHAPTER 1—TRANSITION

18 SEC. 2101. PAY AND BENEFITS PENDING CONVER-  
19 SION.—Except as provided in section 2104(b), until convert-  
20 ed under the provisions of this chapter, individuals who are in  
21 the Foreign Service immediately before the effective date of  
22 this Act and who could be converted under section 2102 or  
23 2103 shall be treated for purposes of salary, allowances, and  
24 all other matters as if they had been converted under section

1 2102 or 2103, as the case may be, on the effective date of  
2 this Act.

3 SEC. 2102. CONVERSION TO THE FOREIGN SERVICE  
4 SCHEDULE.—(a) Not later than 120 days after the effective  
5 date of this Act, the Secretary shall, in accordance with sec-  
6 tion 2106, convert to the appropriate class in the Foreign  
7 Service Schedule established under section 403 of this Act  
8 those individuals in the Foreign Service who are serving im-  
9 mediately before the effective date of this Act under appoint-  
10 ments at or below class 3 of the schedule established under  
11 section 412 or 414 of the Foreign Service Act of 1946, or at  
12 any class in the schedule established under section 415 of  
13 such Act, as—

14 (1) Foreign Service officers, or

15 (2) Foreign Service Reserve officers with limited  
16 or unlimited tenure, and Foreign Service staff officers  
17 or employees, who the Secretary determines are avail-  
18 able for worldwide assignment.

19 (b) Not later than 3 years after the effective date of this  
20 Act, Foreign Service Reserve officers and staff officers and  
21 employees who the Secretary determines under subsection  
22 (a)(2) are not available for worldwide assignment shall also be  
23 converted, in accordance with section 2106, to the appropri-  
24 ate class in the Foreign Service Schedule established under  
25 section 403 if—



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1           (1) the Secretary certifies that there is a need for  
2           their services in the Foreign Service; and

3           (2) they agree in writing to accept availability for  
4           worldwide assignment as a condition of continued em-  
5           ployment.

6           SEC. 2103. CONVERSION TO THE SENIOR FOREIGN  
7           SERVICE.—(a) Foreign Service officers and Foreign Service  
8           Reserve officers with limited or unlimited tenure who, imme-  
9           diately before the effective date of this Act, are serving under  
10          appointments at class 2 or a higher class of the schedule  
11          established under section 412 or 414 of the Foreign Service  
12          Act of 1946 may at any time within 120 days after such date  
13          submit to the Secretary a written request for appointment to  
14          the Senior Foreign Service.

15          (b) Except as provided in subsection (d), if a request is  
16          submitted under subsection (a) by a Foreign Service Reserve  
17          officer with limited tenure, the Secretary shall grant to such  
18          officer a limited appointment to the Senior Foreign Service in  
19          the appropriate class established under section 402 of this  
20          Act.

21          (c) If a request is submitted under subsection (a) by a  
22          Foreign Service officer or, except as provided in subsection  
23          (d), a Foreign Service Reserve officer with unlimited tenure,  
24          the Secretary shall recommend to the President a career ap-  
25          pointment of such officer, by and with the advice and consent

1 of the Senate, to the Senior Foreign Service in the appropri-  
2 ate class established under section 402 of this Act.

3 (d) If the Secretary determines that a Foreign Service  
4 Reserve officer with limited or unlimited tenure who submits  
5 a request under subsection (a) is not available for worldwide  
6 assignment, an appointment under subsection (b) or a recom-  
7 mendation for appointment under subsection (c) shall be made  
8 only if—

9 (1) the Secretary certifies that there is a need for  
10 the services of such officer in the Senior Foreign Serv-  
11 ice; and

12 (2) such officer agrees in writing to accept avail-  
13 ability for worldwide assignment as a condition of con-  
14 tinued employment.

15 (e) If a Foreign Service officer or a Foreign Service  
16 Reserve officer who is eligible to submit a request under sub-  
17 section (a) submits a written request for appointment to the  
18 Senior Foreign Service to the Secretary more than 120 days  
19 after the effective date of this Act and before the end of the  
20 3-year period beginning on such effective date, the Secretary  
21 (in the case of a Foreign Service Reserve officer with limited  
22 tenure) may grant a limited appointment to, or (in the case of  
23 a Foreign Service officer or Foreign Service Reserve officer  
24 with unlimited tenure) may recommend to the President a  
25 career appointment of, the requesting officer to the appropri-

1 ate class established under section 402 of this Act, subject to  
2 the conditions specified in subsection (d) and such other con-  
3 ditions as the Secretary may prescribe consistent with the  
4 provisions of chapter 6 of title I of this Act relating to promo-  
5 tion into the Senior Foreign Service.

6 (f) Any officer of the Foreign Service who is eligible to  
7 submit a request under subsection (a) and—

8 (1) who does not submit a request under subsec-  
9 tion (a), or

10 (2) who submits such a request more than 120  
11 days after the effective date of this Act and is not ap-  
12 pointed to the Senior Foreign Service for any reason  
13 other than failure to meet the conditions specified in  
14 subsection (d),

15 may not remain in the Foreign Service for more than 3 years  
16 after the effective date of this Act. During such period, the  
17 officer shall be subject to the provisions of title I of this Act  
18 applicable to members of the Senior Foreign Service, except  
19 that such officer shall not be eligible to compete for perform-  
20 ance pay under section 405, and shall not be eligible for a  
21 limited career extension as described in section 607(b). Upon  
22 separation from the Service, any such officer who is a partici-  
23 pant in the Foreign Service Retirement and Disability  
24 System shall be entitled to retirement benefits determined in  
25 accordance with chapter 8 of title I of this Act.

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1        SEC. 2104. CONVERSION FROM THE FOREIGN SERV-  
2 ICE.—(a) In the case of any individual in the Foreign Service  
3 who, immediately before the effective date of this Act, is  
4 serving under an appointment described in section 2102(a) or  
5 2103(a) and who is not converted under section 2102 or sec-  
6 tion 2103 because such individual does not meet the condi-  
7 tions specified in section 2102(b) or 2103(d), the Secretary  
8 shall, not later than 3 years after the effective date of this  
9 Act, provide that—

10            (1) the position such individual holds shall be sub-  
11 ject to chapter 51 and subchapter III of chapter 53 of  
12 title 5, United States Code;

13            (2) such individual shall be appointed to such posi-  
14 tion without competitive examination; and

15            (3) such position shall be considered to be in the  
16 competitive service so long as the individual continues  
17 to hold that position;

18 except that any such individual who meets the eligibility re-  
19 quirements for the Senior Executive Service and who elects  
20 to join that Service shall be converted by the Secretary to the  
21 Senior Executive Service in the appropriate rate of basic pay  
22 established under section 5382 of title 5, United States Code.

23        (b)(1) In the case of individuals in the Foreign Service in  
24 the International Communication Agency who immediately  
25 before the date of enactment of this Act are covered by a

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1 collective bargaining agreement between the Agency and the  
2 exclusive representative of those individuals, the 3-year  
3 period referred to in subsection (a) shall begin on July 1,  
4 1981. Prior to that date, any individual in the Foreign Serv-  
5 ice exempted from conversion by this subsection may elect to  
6 remain in the Foreign Service and, notwithstanding any  
7 other provision of law, the status, promotion, class, and  
8 tenure of such individuals shall continue to be governed by  
9 the Foreign Service Act of 1946 and Public Law 90-494 (as  
10 those Acts were in effect immediately before the effective  
11 date of this Act). This Act (except sections 402, 403, 404,  
12 and 405) shall also apply to such individuals, and such indi-  
13 viduals shall be considered members of the Foreign Service  
14 for purposes of sections 103, 406, 501, 502, 503, 504, 610,  
15 and 803 of this Act.

16 (2) The President shall prescribe salary rates for the  
17 individuals in the Foreign Service who are temporarily ex-  
18 cepted from conversion under this subsection in accordance  
19 with the salary classes established under sections 414 and  
20 415 of the Foreign Service Act of 1946. Salary rates for  
21 such individuals shall be adjusted at the same time and to the  
22 same extent as rates of basic pay are adjusted for the Gener-  
23 al Schedule.

24 SEC. 2105. CONVERSION OF CERTAIN POSITIONS IN  
25 THE DEPARTMENT OF AGRICULTURE.—(a) Not later than

1 15 days after the effective date of this Act, the Secretary of  
2 Agriculture shall—

3 (1) designate under section 501 of this Act those  
4 positions in the Foreign Agricultural Service under the  
5 General Schedule described in section 5332 of title 5,  
6 United States Code, which the Secretary of Agricul-  
7 ture determines are to be occupied by career members  
8 of the Foreign Service, and

9 (2) provide written notice to individuals holding  
10 those positions of such designation.

11 (b) Each employee serving in a position at the time it is  
12 designated under subsection (a) shall, not later than 120 days  
13 after notice of such designation, elect—

14 (1) to accept conversion to the Foreign Service, in  
15 which case such employee shall be converted in ac-  
16 cordance with the provisions of subsection (c); or

17 (2) to decline conversion to the Foreign Service  
18 and have the provisions of subsection (d) apply.

19 (c)(1) The Secretary of Agriculture shall recommend to  
20 the President for appointment to the appropriate class (as  
21 determined under paragraph (2)), by and with the advice and  
22 consent of the Senate, those employees who elect conversion  
23 under subsection (a)(1).

1       (2) The Secretary of Agriculture shall appoint as For-  
2 eign Service personnel those employees who elect to accept  
3 conversion and who are not eligible for appointment under  
4 paragraph (1).

5       (d) Any employee who declines conversion under sub-  
6 section (b)(2) shall for so long as that employee continues to  
7 hold the designated position be deemed to be a member of the  
8 Foreign Service for purposes of allowances, differentials, and  
9 similar benefits (as determined by the Secretary of Agricul-  
10 ture).

11       SEC. 2106. PRESERVATION OF STATUS AND BENE-  
12 FITS.—(a)(1) Subject to paragraph (2), every individual who  
13 is converted under this chapter shall be converted to the class  
14 or grade and pay rate that most closely corresponds to the  
15 class or grade and step at which the individual was serving  
16 immediately before conversion. No conversion under this  
17 chapter shall cause any individual to incur a reduction in his  
18 or her class, grade, or basic rate of salary.

19       (2)(A) Conversion under section 2102 of any individual  
20 in the Foreign Service to the Foreign Service Schedule shall  
21 in each case be to a class determined on the basis of the rank  
22 held immediately before the effective date of this Act, in ac-  
23 cordance with the following table:

If the rank held immediately before the effective date is:	The individual shall be converted to the following class:
FSO-3, FSR-3, FSRU-3, or FSS-1 .....	FS-1
FSO-4, FSR-4, FSRU-4, or FSS-2 .....	FS-2
FSO-5, FSR-5, FSRU-5, or FSS-3 .....	FS-3
FSO-6, FSR-6, FSRU-6, or FSS-4 .....	FS-5
FSO-7, FSR-7, FSRU-7, or FSS-5 .....	FS-6
FSO-8, FSR-8, FSRU-8, or FSS-6 .....	FS-7
FSS-7 .....	FS-8
FSS-8 .....	FS-9
FSS-9 .....	FS-10
FSS-10 .....	FS-10

1 (B) Each individual converted to a class under subpara-  
2 graph (A) shall be placed in the salary step in that class  
3 which is the numerical equivalent of the step that individual  
4 was in immediately before such conversion unless the individ-  
5 ual is entitled to be in a higher step under the provisions of  
6 paragraph (1).

7 (C) Any individual converted under this subsection  
8 whose basic rate of salary immediately before conversion ex-  
9 ceeds the salary rate for the step to which he or she is con-  
10 verted shall be entitled to continue to receive salary at the  
11 former rate at time of conversion. Such salary rate shall be  
12 increased by 50 percent of the amount of each increase in the  
13 individual's new salary step until the rate is equal to the rate  
14 which would be applicable but for this paragraph.

15 (D) Not later than 6 months after the effective date of  
16 this Act, each career member of the Foreign Service holding  
17 the rank of FSO-6, FSR-6, FSRU-6, or FSS-4 immediate-  
18 ly before such effective date shall be evaluated and consid-  
19 ered for promotion to salary class FS-4 by a Foreign Service



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1 selection board in accordance with chapter 6 of title I of this  
2 Act.

3 (3) An individual converted under section 2104 to a po-  
4 sition in the competitive service shall be entitled to have that  
5 position, or any other position to which the individual is sub-  
6 sequently assigned (other than at the request of the individu-  
7 al), be considered for all purposes as at the grade which cor-  
8 responds to the class in which the individual served immedi-  
9 ately before conversion so long as the individual continues to  
10 hold that position.

11 (b)(1) Any participant in the Foreign Service Retirement  
12 and Disability System who would, but for this paragraph,  
13 participate in the Civil Service Retirement and Disability  
14 System by virtue of conversion under this chapter shall  
15 remain a participant in the Foreign Service Retirement and  
16 Disability System for 120 days after participation in the For-  
17 eign Service Retirement and Disability System would other-  
18 wise cease. During such 120-day period, the individual may  
19 elect in writing to continue to participate in the Foreign  
20 Service Retirement and Disability System instead of the Civil  
21 Service Retirement and Disability System so long as he or  
22 she is employed in an agency which is authorized to utilize  
23 the Foreign Service personnel system. If such an election is  
24 not made, the individual shall then be covered by the Civil  
25 Service Retirement and Disability System and contributions  
26 made by the participant to the Foreign Service Retirement

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1 and Disability Fund shall be transferred to the Civil Service  
2 Retirement and Disability Fund.

3 (2) Any Foreign Service Reserve officer with limited  
4 tenure who has reemployment rights to a personnel category  
5 in the Foreign Service in which he or she would be a partici-  
6 pant in the Foreign Service Retirement and Disability  
7 System and who would, but for this paragraph, continue to  
8 participate in the Civil Service Retirement and Disability  
9 System by virtue of conversion under section 2104 may  
10 elect, during the 120-day period beginning on the date of  
11 such conversion, to become a participant in the Foreign Serv-  
12 ice Retirement and Disability System so long as he or she is  
13 employed in an agency which is authorized to utilize the For-  
14 eign Service personnel system. If such an election is made,  
15 the individual shall be transferred to the Foreign Service Re-  
16 tirement and Disability System and contributions made by  
17 that individual to the Civil Service Retirement and Disability  
18 Fund shall be transferred to the Foreign Service Retirement  
19 and Disability Fund.

20 (c) Individuals who are converted under this chapter  
21 shall be converted to the type of appointment which corre-  
22 sponds most closely in tenure to the type of appointment  
23 under which they were serving immediately prior to such  
24 conversion, except that this chapter shall not operate to

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1 extend the duration of any limited appointment or previously  
2 applicable time in class.

3 (d) Any individual who on the effective date of this Act  
4 is serving—

5 (1) under an appointment in the Foreign Service,  
6 or

7 (2) in any other office or position continued by  
8 this Act,

9 may continue to serve under such appointment, subject to the  
10 provisions of this Act, and need not be reappointed by virtue  
11 of the enactment of this Act.

12 (e) Any individual in the Foreign Service—

13 (1) who is serving under a career appointment on  
14 the date of enactment of this Act, and

15 (2) who was not subject to section 633(a)(2) of the  
16 Foreign Service Act of 1946 immediately before the  
17 effective date of this Act,

18 may not be retired under section 608 of this Act until 10  
19 years after the effective date of this Act or when such indi-  
20 vidual first becomes eligible for immediate annuity under  
21 chapter 8 of title I of this Act, whichever occurs first.

22 SEC. 2107. REGULATIONS.—Under the direction of the  
23 President, the Secretary shall prescribe regulations for the  
24 implementation of this chapter.

8 CHAPTER 2—AMENDMENTS RELATING TO FOREIGN  
9 AFFAIRS AGENCIES

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1 unless such expenditure has been approved by Act of  
2 Congress.

3       “(b) Any unconditional gift of money accepted under  
4 subsection (a), the income from any gift property held under  
5 subsection (c) or (d) (except income made available for ex-  
6 penditure under subsection (d)(2)), the net proceeds from the  
7 liquidation of gift property under subsection (c) or (d), and the  
8 proceeds of insurance on any gift property which are not used  
9 for its restoration, shall be deposited in the Treasury of the  
10 United States. Such funds are hereby appropriated and shall  
11 be held in trust by the Secretary of the Treasury for the  
12 benefit of the Department of State (including the Foreign  
13 Service). The Secretary of the Treasury may invest and rein-  
14 vest such funds in interest-bearing obligations of the United  
15 States or in obligations guaranteed as to both principal and  
16 interest by the United States. Such funds and the income  
17 from such investments shall be available for expenditure in  
18 the operation of the Department of State (including the For-  
19 eign Service) and the performance of its functions, subject to  
20 the same examination and audit as is provided for appropri-  
21 ations made for the Foreign Service by the Congress.

22       “(c) The evidences of any unconditional gift of intangi-  
23 ble personal property (other than money) accepted under sub-  
24 section (a), shall be deposited with the Secretary of the  
25 Treasury who may hold or liquidate them, except that they

1 shall be liquidated upon the request of the Secretary of State  
2 whenever necessary to meet payments required in the oper-  
3 ation of the Department of State (including the Foreign Serv-  
4 ice) or the performance of its functions.

5       “(d)(1) The Secretary of State shall hold any real prop-  
6 erty or any tangible personal property accepted uncondition-  
7 ally pursuant to subsection (a) and shall either use such prop-  
8 erty for the operation of the Department of State (including  
9 the Foreign Service) and the performance of its functions or  
10 lease or hire such property, except that any such property  
11 not required for the operation of the Department of State  
12 (including the Foreign Service) or the performance of its  
13 functions may be liquidated by the Secretary of State when-  
14 ever in the judgment of the Secretary of State the purposes  
15 of the gift will be served thereby. The Secretary of State may  
16 insure any property held under this subsection. Except as  
17 provided in paragraph (2), the Secretary shall deposit the  
18 income from any property held under this subsection with the  
19 Secretary of the Treasury as provided in subsection (b).

20       “(2) The income from any real property or tangible per-  
21 sonal property held under this subsection shall be available  
22 for expenditure at the discretion of the Secretary of State for  
23 the maintenance, preservation, or repair and insurance of  
24 such property and any proceeds from insurance may be used  
25 to restore the property insured.

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1       “(e) For the purpose of Federal income, estate, and gift  
2 taxes, any gift, devise, or bequest accepted under this section  
3 shall be deemed to be a gift, devise, or bequest to and for the  
4 use of the United States.

5       “(f) The authorities available to the Secretary of State  
6 under this section with respect to the Department of State  
7 shall be available to the Director of the International Com-  
8 munication Agency and the Director of the United States  
9 International Development Cooperation Agency with respect  
10 to their respective agencies.

11       “SEC. 26. (a) The Secretary of State may, without  
12 regard to section 3106 of title 5, United States Code, author-  
13 ize a principal officer of the Foreign Service to procure legal  
14 services whenever such services are required for the protec-  
15 tion of the interests of the Government or to enable a  
16 member of the Service to carry on the member's work effi-  
17 ciently.

18       “(b) The authority available to the Secretary of State  
19 under this section shall be available to the Director of the  
20 International Communication Agency and the Director of the  
21 United States International Development Cooperation  
22 Agency with respect to their respective agencies.

23       “SEC. 27. (a) In order to expand employment opportu-  
24 nities for family members of United States Government per-  
25 sonnel assigned abroad, the Secretary of State shall seek to

1 conclude such bilateral and multilateral agreements as will  
2 facilitate the employment of such family members in foreign  
3 economies.

4       “(b) Any member of a family of a member of the For-  
5 eign Service may accept gainful employment in a foreign  
6 country unless such employment—

7               “(1) would violate any law of such country or of  
8 the United States; or

9               “(2) could, as certified in writing by the United  
10 States chief of mission to such country, damage the in-  
11 terests of the United States.

12       “SEC. 28. The Secretary of State may authorize the  
13 principal officer of a Foreign Service post to provide for the  
14 use of Government owned or leased vehicles located at that  
15 post for transportation of United States Government employ-  
16 ees and their families when public transportation is unsafe or  
17 not available or when such use is advantageous to the Gov-  
18 ernment.

19       “SEC. 29. Whenever the Secretary of State determines  
20 that educational facilities are not available, or that existing  
21 educational facilities are inadequate, to meet the needs of  
22 children of United States citizens stationed outside the  
23 United States who are engaged in carrying out Government  
24 activities, the Secretary may, in such manner as he deems  
25 appropriate and under such regulations as he may prescribe,



1 establish, operate, and maintain primary schools, and school  
2 dormitories and related educational facilities for primary and  
3 secondary schools, outside the United States, make grants of  
4 funds for such purposes, or otherwise provide for such educa-  
5 tional facilities. The authorities of the Foreign Service Build-  
6 ings Act, 1926, and of paragraphs (h) and (i) of section 3 of  
7 this Act, may be utilized by the Secretary in providing assist-  
8 ance for educational facilities. Such assistance may include  
9 hiring, transporting, and payment of teachers and other nec-  
10 essary personnel.

11 "SEC. 30. (a) The remedy—

12 "(1) against the United States provided by sec-  
13 tions 1346(b) and 2672 of title 28, United States Code,  
14 or

15 "(2) through proceedings for compensation or  
16 other benefits from the United States as provided by  
17 any other law, where the availability of such benefits  
18 precludes a remedy under such sections,

19 for damages for personal injury, including death, allegedly  
20 arising from malpractice or negligence of a physician, dentist,  
21 nurse, pharmacist, or paramedical (including medical and  
22 dental assistants and technicians, nursing assistants, and  
23 therapists) or other supporting personnel of the Department  
24 of State in furnishing medical care or related services, includ-  
25 ing the conducting of clinical studies or investigations, while

1 in the exercise of his or her duties in or for the Department of  
2 State or any other Federal department, agency, or instru-  
3 mentality shall be exclusive of any other civil action or pro-  
4 ceeding by reason of the same subject matter against such  
5 physician, dentist, nurse, pharmacist, or paramedical or other  
6 supporting personnel (or his or her estate) whose act or omis-  
7 sion gave rise to such claim.

8       “(b) The United States Government shall defend any  
9 civil action or proceeding brought in any court against any  
10 person referred to in subsection (a) of this section (or his or  
11 her estate) for any such damage or injury. Any such person  
12 against whom such civil action or proceeding is brought shall  
13 deliver, within such time after date of service or knowledge  
14 of service as may be determined by the Attorney General, all  
15 process served upon him or her or an attested true copy  
16 thereof to whomever was designated by the Secretary to re-  
17 ceive such papers. Such person shall promptly furnish copies  
18 of the pleading and process therein to the United States at-  
19 torney for the district embracing the place wherein the pro-  
20 ceeding is brought, to the Attorney General, and to the Sec-  
21 retary.

22       “(c) Upon a certification by the Attorney General that  
23 the defendant was acting within the scope of his or her em-  
24 ployment in or for the Department of State or any other Fed-  
25 eral department, agency, or instrumentality at the time of the

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1 incident out of which the suit arose, any such civil action or  
2 proceeding commenced in a State court shall be removed  
3 without bond at any time before trial by the Attorney Gener-  
4 al to the district court of the United States of the district and  
5 division embracing the place wherein it is pending and the  
6 proceeding deemed a tort action brought against the United  
7 States under the provisions of title 28, United States Code,  
8 and all references thereto. Should a United States district  
9 court determine on a hearing on a motion to remand held  
10 before a trial on the merits that the case so removed is one in  
11 which a remedy by suit within the meaning of subsection (a)  
12 of this section is not available against the United States, the  
13 case shall be remanded to the State court except that where  
14 such remedy is precluded because of the availability of a  
15 remedy through proceedings for compensation or other bene-  
16 fits from the United States as provided by any other law, the  
17 case shall be dismissed, but in that event, the running of any  
18 limitation of time for commencing, or filing an application or  
19 claim in, such proceedings for compensation or other benefits  
20 shall be deemed to have been suspended during the pendency  
21 of the civil action or proceeding under this section.

22       “(d) The Attorney General may compromise or settle  
23 any claim asserted in such civil action or proceeding in the  
24 manner provided in section 2677 of title 28, the United  
25 States Code, and with the same effect.

1       “(e) For purposes of this section, the provisions of sec-  
2       tion 2680(h) of title 28, United States Code, shall not apply  
3       to any tort enumerated therein arising out of negligence in  
4       the furnishing of medical care or related services, including  
5       the conducting of clinical studies or investigations.

6       “(f) The Secretary may, to the extent he deems appro-  
7       priate, hold harmless or provide liability insurance for any  
8       person to whom the immunity provisions of subsection (a) of  
9       this section apply, for damages for personal injury, including  
10      death, negligently caused by any such person while acting  
11      within the scope of his or her office or employment and as a  
12      result of the furnishing of medical care or related services,  
13      including the conducting of clinical studies or investigations,  
14      if such person is assigned to a foreign area or detailed for  
15      service with other than a Federal agency or institution, or if  
16      the circumstances are such as are likely to preclude the rem-  
17      edies of third persons against the United States provided by  
18      sections 1346(b) and 2672 of title 28, United States Code,  
19      for such damage or injury.

20      “(g) For purposes of this section, any medical care or  
21      related service covered by this section and performed abroad  
22      by a covered person at the direction or with the approval of  
23      the United States chief of mission or other principal repre-  
24      sentative of the United States in the area shall be deemed to

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1 be within the scope of employment of the individual perform-  
2 ing the service.

3       "SEC. 31. (a) The Secretary of State may authorize and  
4 assist in the establishment, maintenance, and operation by  
5 civilian officers and employees of the Government of non-  
6 Government-operated services and facilities at posts abroad,  
7 including the furnishing of space, utilities, and properties  
8 owned or leased by the Government for use by its diplomatic,  
9 consular, and other missions and posts abroad. The provi-  
10 sions of the Foreign Service Buildings Act, 1926 (22 U.S.C.  
11 292-300) and section 13 of this Act may be utilized by the  
12 Secretary in providing such assistance.

13       "(b) The Secretary may establish and maintain emer-  
14 gency commissary or mess services in places abroad where,  
15 in the judgment of the Secretary, such services are necessary  
16 temporarily to insure the effective and efficient performance  
17 of official duties and responsibilities. Reimbursements inci-  
18 dent to the maintenance and operation of commissary or  
19 mess service under this subsection shall be at not less than  
20 cost as determined by the Secretary and shall be used as  
21 working funds, except that an amount equal to the amount  
22 expended for such services shall be covered into the Treasury  
23 as miscellaneous receipts.

24       "(c) Services and facilities established under this section  
25 shall be made available, insofar as practicable, to officers and

1 employees of all agencies and their dependents who are sta-  
2 tioned in the locality abroad. Such services and facilities shall  
3 not be established in localities where another agency oper-  
4 ates similar services or facilities unless the Secretary deter-  
5 mines that additional services or facilities are necessary.  
6 Other agencies shall to the extent practicable avoid duplicat-  
7 ing the facilities and services provided or assisted by the Sec-  
8 retary under this section.

9       “(d) Charges at any post abroad for a service or facility  
10 provided, authorized or assisted under this section shall be at  
11 the same rate for all civilian personnel of the Government  
12 serviced thereby, and all charges for supplies furnished to  
13 such a service or facility abroad by any agency shall be at the  
14 same rate as that charged by the furnishing agency to its  
15 comparable civilian services and facilities.

16       “SEC. 32. The Secretary of State may pay, without  
17 regard to section 5702 of title 5, United States Code, subsist-  
18 ence expenses of (1) security officers of the Department of  
19 State who are on authorized protective missions, and (2)  
20 members of the Foreign Service and employees of the De-  
21 partment who are required to spend extraordinary amounts of  
22 time in travel status.

23       “SEC. 33. This Act may be cited as the ‘State Depart-  
24 ment Basic Authorities Act of 1956’.”.

1 (b) Section 13(a) of such Act (22 U.S.C. 2684(a)) is  
2 amended by striking out "Foreign Service Act of 1946, as  
3 amended" and inserting in lieu thereof "Foreign Service Act  
4 of 1980".

5 SEC. 2202. PEACE CORPS ACT.—(a) Section 5 of the  
6 Peace Corps Act (22 U.S.C. 2504) is amended—

7 (1) in subsection (f)(1)—

8 (A) in subparagraph (A) by striking out "sec-  
9 tion 852(a)(1) of the Foreign Service Act of 1946,  
10 as amended (22 U.S.C. 1092(a)(1)), " and inserting  
11 in lieu thereof "section 816(a) of the Foreign  
12 Service Act of 1980", and

13 (B) in subparagraph (B) by striking out "For-  
14 eign Service Act of 1946" and inserting in lieu  
15 thereof "Foreign Service Act of 1980"; and

16 (2) in subsection (h)—

17 (A) by striking out "section 1091 of the For-  
18 eign Service Act of 1946" and inserting in lieu  
19 thereof "section 30 of the State Department  
20 Basic Authorities Act of 1956", and

21 (B) by striking out "Director of Action" and  
22 inserting in lieu thereof "President".

23 (b)(1) Section 7(a) of the Peace Corps Act (22 U.S.C.  
24 2506(a)) is amended—

25 (A) in paragraph (1)—

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1 (i) by striking out “, who shall receive com-  
2 pensation at any of the rates provided for persons  
3 appointed to the Foreign Service Reserve and  
4 Staff under the Foreign Service Act of 1946, as  
5 amended (22 U.S.C. 801 et seq.)” and inserting  
6 in lieu thereof “which are not authorized to utilize  
7 the Foreign Service personnel system, who shall  
8 receive compensation at any of the rates estab-  
9 lished under section 402 or 403 of the Foreign  
10 Service Act of 1980”;

11 (ii) by striking out “section 528” and insert-  
12 ing in lieu thereof “section 310”; and

13 (iii) by striking out “Reserve” the last place  
14 it appears and all that follows and inserting in  
15 lieu thereof a period; and

16 (B) by amending paragraph (2) to read as follows:

17 “(2) In order to employ such individuals as may be nec-  
18 essary to perform duties that reasonably require availability  
19 for worldwide assignment, the President may utilize such au-  
20 thority contained in the Foreign Service Act of 1980 relating  
21 to members of the Foreign Service and other United States  
22 Government officers and employees as the President deems  
23 necessary to carry out functions under this Act, except  
24 that—



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1           “(A) no Foreign Service appointment or assign-  
2           ment under this paragraph shall be for a period of  
3           more than five years unless the Director of the Peace  
4           Corps, under special circumstances, personally ap-  
5           proves an extension of not more than one year on an  
6           individual basis; and

7           “(B) no individual whose Foreign Service appoint-  
8           ment or assignment under this paragraph has been ter-  
9           minated shall be reappointed or reassigned under this  
10          paragraph before the expiration of a period of time  
11          equal to the preceding tour of duty of that individual.

12       Such provisions of the Foreign Service Act of 1980 as the  
13       President deems appropriate shall apply to individuals ap-  
14       pointed or assigned under this paragraph, including in all  
15       cases, the provisions of section 310 of that Act, except that  
16       (i) the President may by regulation make exceptions to the  
17       application of section 310 in cases in which the period of the  
18       appointment or assignment exceeds thirty months, (ii) mem-  
19       bers of the Foreign Service appointed or assigned pursuant to  
20       this paragraph shall receive within-class salary increases in  
21       accordance with such regulations as the President may pre-  
22       scribe, and (iii) under such regulations as the President may  
23       prescribe, individuals who are to perform duties of a more  
24       routine nature than are generally performed by members of  
25       the Foreign Service assigned to the lowest class of the For-

1 eign Service Schedule may be appointed to an unenumerated  
2 class ranking below the lowest class of the Foreign Service  
3 Schedule and be paid basic compensation at rates lower than  
4 those of the lowest class, except that such rates may be no  
5 less than the then applicable minimum wage rate specified in  
6 section 6(a)(1) of the Fair Labor Standards Act of 1938 (29  
7 U.S.C. 206(a)(1)).”.

8 (2) Section 7(a)(4) of the Peace Corps Act (22 U.S.C.  
9 2506(a)(4)) is amended—

10 (A) by striking out “Until” and all that follows  
11 through “paragraph or” and inserting in lieu thereof  
12 “An individual who has received an appointment or as-  
13 signment in the Foreign Service under this subsection  
14 may, not later than September 30, 1982, or three  
15 years”;

16 (B) by striking out “such person” and inserting in  
17 lieu thereof “such individual”; and

18 (C) by striking out “substantially continuous  
19 basis” and inserting in lieu thereof “continuous basis  
20 without a break in service of more than three days”.

21 (c) Section 13(b) of the Peace Corps Act (22 U.S.C.  
22 2512(b)) is amended by striking out “section 872 of the For-  
23 eign Service Act of 1946, as amended” and inserting in lieu  
24 thereof “section 824 of the Foreign Service Act of 1980,”.

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1 (d) Section 14(b) of the Peace Corps Act (22 U.S.C.  
2 2513(b)) is amended by striking out "section 901 of the For-  
3 eign Service Act of 1946 (22 U.S.C. 1131)" and inserting in  
4 lieu thereof "section 905 of the Foreign Service Act of  
5 1980".

6 (e) Section 15(a) of the Peace Corps Act (22 U.S.C.  
7 2514) is amended by striking out "Foreign Service person-  
8 nel" and inserting in lieu thereof "members of the Foreign  
9 Service".

10 SEC. 2203. FOREIGN ASSISTANCE ACT.—(a) Section  
11 625(d) of the Foreign Assistance Act of 1961 (22 U.S.C.  
12 2385(d)) is amended to read as follows:

13 "(d) For the purpose of performing functions under this  
14 Act outside the United States, the President may employ or  
15 assign individuals, or may authorize the employment or as-  
16 signment of officers or employees by agencies of the United  
17 States Government which are not authorized to utilize the  
18 Foreign Service personnel system, who shall receive compen-  
19 sation at any of the rates provided for under section 402 or  
20 section 403 of the Foreign Service Act of 1980, together  
21 with allowances and benefits under that Act. Individuals so  
22 employed or assigned shall be entitled, except to the extent  
23 that the President may specify otherwise in cases in which  
24 the period of employment or assignment exceeds thirty  
25 months, to the same benefits as are provided by section 310

1 of that Act for individuals appointed to the Foreign Serv-  
2 ice.”.

3 (b) Section 629(b) of the Foreign Assistance Act of  
4 1961 (22 U.S.C. 2389(b)) is amended by striking out “sec-  
5 tion 901 of the Foreign Service Act of 1946, as amended (22  
6 U.S.C. 1131)” and inserting in lieu thereof “section 905 of  
7 the Foreign Service Act of 1980”.

8 (c) Section 631(b) of such Act (22 U.S.C. 2391(b)) is  
9 amended by amending the second sentence to read as follows:  
10 “Such chief shall be entitled to receive such compensation  
11 and allowances as are authorized by the Foreign Service Act  
12 of 1980, not to exceed those authorized for a chief of mission  
13 (as defined in section 102(a)(3) of that Act), as the President  
14 shall determine to be appropriate.”.

15 (d) Section 631(c) of such Act (22 U.S.C. 2391(c)) is  
16 amended by amending the second sentence to read as follows:  
17 “Such person may receive such compensation and allowances  
18 as are authorized by the Foreign Service Act of 1980, not to  
19 exceed those authorized for a chief of mission (as defined in  
20 section 102(a)(3) of that Act), as the President shall deter-  
21 mine to be appropriate.”.

22 SEC. 2204. ARMS CONTROL AND DISARMAMENT  
23 ACT.—(a) Section 42 of the Arms Control and Disarmament  
24 Act (22 U.S.C. 2582) is amended to read as follows:

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## 1 "FOREIGN SERVICE PERSONNEL

2 "SEC. 42. (a) The Secretary of State may authorize the  
3 Director to exercise, with respect to members of the Foreign  
4 Service appointed or employed for the Agency—

5 "(1) the authority available to the Secretary under  
6 the Foreign Service Act of 1980, and

7 "(2) the authority available to the Secretary under  
8 any other provisions of law pertaining specifically or  
9 applicable generally to members of the Foreign  
10 Service.

11 "(b) Limited appointments of members of the Foreign  
12 Service for the Agency may be extended or renewed, not-  
13 withstanding section 309 of the Foreign Service Act of 1980,  
14 so long as the service of the individual under such appoint-  
15 ment does not exceed ten consecutive years without a break  
16 in service of at least one year."

17 (b) Section 48 of the Arms Control and Disarmament  
18 Act (22 U.S.C. 2588) is amended by striking out "Foreign  
19 Service Act of 1946, as amended" and inserting in lieu  
20 thereof "Foreign Service Act of 1980".

21 SEC. 2205. REPEALED PROVISIONS.—The following  
22 are repealed:

23 (1) The Act entitled "An Act to improve,  
24 strengthen, and expand the Foreign Service of the  
25 United States and to consolidate and revise the laws

1 relating to its administration", approved August 13,  
2 1946, titles I through X of such Act being the Foreign  
3 Service Act of 1946 (22 U.S.C. 801-810, 816, 817,  
4 821, 826, 827, 841-843, 846, 861, 866-873, 876,  
5 877, 881, 882, 886, 889, 890, 896, 900, 901, 902,  
6 906-915, 921-924, 926-928, 936-939, 946, 947,  
7 951, 961-966, 968, 981, 986, 987, 991-996,  
8 1001-1009, 1016, 1017, 1021, 1022, 1026-1028,  
9 1031, 1036, 1037-1037c, 1041-1048, 1061-1065,  
10 1071, 1076, 1076a, 1081, 1082, 1084, 1086, 1091,  
11 1093, 1095, 1101, 1103-1106, 1111, 1112, 1116,  
12 1121, 1131, 1136-1138a, 1139, 1148-1151, and  
13 1156-1160).

14 (2) Sections 401 and 413 of the Foreign Relations  
15 Authorization Act, Fiscal Year 1979 (92 Stat. 981,  
16 986).

17 (3) Section 413 of the Foreign Relations Authori-  
18 zation Act, Fiscal Year 1978 (91 Stat. 857).

19 (4) Sections 117, 120, and 522 of the Foreign  
20 Relations Authorization Act, Fiscal Year 1977 (90  
21 Stat. 827, 829, 846).

22 (5) Section 6 of the Department of State Appro-  
23 priations Authorization Act of 1973 (87 Stat. 452).

24 (6) The Act entitled "An Act to promote the for-  
25 eign policy of the United States by strengthening and

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1 improving the Foreign Service personnel system of the  
2 International Communication Agency through estab-  
3 lishment of a Foreign Service Information Officer  
4 Corps", approved August 20, 1968 (22 U.S.C.  
5 929-932, 1221-1234).

6 (7) Section 104(c) of the Mutual Educational and  
7 Cultural Exchange Act of 1961 (22 U.S.C. 2454(c)).

8 (8) Subsections (e) (g), (j), and (k) of section 625  
9 of the Foreign Assistance Act of 1961 (22 U.S.C.  
10 2385 (e), (g), (j), and (k)), except that the repeal of  
11 subsection (k) shall not become effective until January  
12 1, 1982.

13 (9) Section 7(b) of the Peace Corps Act (22  
14 U.S.C. 2506(b)).

15 (10) Sections 14 and 16 of the Act entitled "An  
16 Act to provide certain basic authority for the Depart-  
17 ment of State", approved August 1, 1956 (22 U.S.C.  
18 2679a, 2680a).

19 (11) Section 124(a)(2) of the International Devel-  
20 opment and Food Assistance Act of 1977 (91 Stat.  
21 542).

22 (12) The Act entitled "An Act to make certain in-  
23 creases in the annuities of annuitants under the For-  
24 eign Service retirement and disability system", ap-  
25 proved May 21, 1952 (22 U.S.C. 1077, 1078).

1           (13) The Act entitled "An Act to make certain in-  
2           creases in the annuities of annuitants under the For-  
3           eign Service retirement and disability system", ap-  
4           proved May 1, 1956 (22 U.S.C. 1079-1079f).

5           (14) The Act entitled "An Act to provide for ad-  
6           justments in the annuities under the Foreign Service  
7           retirement and disability system", approved September  
8           2, 1958 (22 U.S.C. 1079g-1079j).

9           (15) The Act entitled "An Act to provide for ad-  
10          justments in the annuities under the Foreign Service  
11          retirement and disability system", approved July 12,  
12          1960 (22 U.S.C. 1079l).

13          (16) The Foreign Service Annuity Adjustment  
14          Act of 1965 (22 U.S.C. 1079m-1079s).

15          SEC. 2206. OTHER CONFORMING AMENDMENTS.—

16       (a)(1) Section 3(b) of the Asian Development Bank Act (22  
17       U.S.C. 285a(b)) is amended by striking out the "a Chief of  
18       Mission, class 2, within the meaning of the Foreign Service  
19       Act of 1946, as amended" and inserting in lieu thereof "a  
20       chief of mission under the Foreign Service Act of 1980".

21       (2) The United Nations Participation Act of 1945 is  
22       amended—

23               (A) in section 2(g) (22 U.S.C. 287(g)) by striking  
24               out "sections 411 and 412 of the Foreign Service Act  
25               of 1946 (Public Law 724, Seventy-ninth Congress) for



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1 chiefs of mission" and inserting in lieu thereof "section  
2 401, 402, and 403 of the Foreign Service Act of 1980  
3 for chiefs of mission, members of the Senior Foreign  
4 Service,"; and

5 (B) in section 8 (22 U.S.C. 287e) by striking out  
6 "section 901(3) of the Foreign Service Act of 1946  
7 (Public Law 724, Seventy-ninth Congress)" and insert-  
8 ing in lieu thereof "section 905 of the Foreign Service  
9 Act of 1980".

10 (3) Section 2 of the joint resolution entitled "Joint Res-  
11 olution providing for membership and participation by the  
12 United States in the United Nations Educational, Scientific,  
13 and Cultural Organization, and authorizing an appropriation  
14 therefor", approved July 30, 1946 (22 U.S.C. 287n), is  
15 amended by striking out "Foreign Service officers in the  
16 schedule contained in section 412 of the Foreign Service Act  
17 of 1946, as amended," and inserting in lieu thereof "mem-  
18 bers of the Senior Foreign Service under section 402 of the  
19 Foreign Service Act of 1980, or provided for Foreign Service  
20 officers under section 403 of that Act,".

21 (4) Section 2 of the joint resolution entitled "Joint Res-  
22 olution providing for membership and participation by the  
23 United States in the World Health Organization and author-  
24 izing an appropriation therefor", approved June 14, 1948 (22  
25 U.S.C. 290a), is amended by striking out "provided by sec-

1 tion 412 of the Foreign Service Act of 1946, as amended,"  
2 and inserting in lieu thereof "established under section 402  
3 or 403 of the Foreign Service Act of 1980".

4 (5) Section 203(b) of the African Development Fund Act  
5 (22 U.S.C. 290g-1(b)) is amended by striking out "a Chief of  
6 Mission, class 2, within the meaning of the Foreign Service  
7 Act of 1946, as amended" and inserting in lieu thereof "a  
8 chief of mission under the Foreign Service Act of 1980".

9 (6) Section 408 of the Mutual Security Act of 1954 (22  
10 U.S.C. 1928) is amended—

11 (A) in subsection (a) by striking out "Foreign  
12 Service Act of 1946, as amended (22 U.S.C. 801)," and  
13 inserting in lieu thereof "Foreign Service Act of  
14 1980";

15 (B) in subsection (b) by striking out "chief of mis-  
16 sion, class 1, within the meaning of the Foreign Serv-  
17 ice Act of 1946, as amended (22 U.S.C. 801)" and in-  
18 serting in lieu thereof "chief of mission under the For-  
19 eign Service Act of 1980"; and

20 (C) in subsection (c) by striking out "section 529  
21 of this Act who are appointed as Foreign Service Re-  
22 serve officers may serve for periods of more than five  
23 years notwithstanding the limitation in section 522 of  
24 the Foreign Service Act of 1946, as amended (22  
25 U.S.C. 922)" and inserting in lieu thereof "section 628

1 of the Foreign Assistance Act of 1961 who are mem-  
2 bers of the Foreign Service serving under limited ap-  
3 pointments may serve for periods of more than five  
4 years notwithstanding the limitation in section 309 of  
5 the Foreign Service Act of 1980”.

6 (7) The International Atomic Energy Agency Participa-  
7 tion Act of 1957 is amended—

8 (A) in section 2(d) (22 U.S.C. 2021(d))—

9 (i) in the first sentence by striking out “sec-  
10 tion 411 and 412 of the Foreign Service Act of  
11 1946, as amended (22 U.S.C. 866, 867), for  
12 Chiefs of Mission” and inserting in lieu thereof  
13 “sections 401, 402, and 403 of the Foreign Serv-  
14 ice Act of 1980 for chiefs of mission, members of  
15 the Senior Foreign Service,” and

16 (ii) in the second sentence by striking out  
17 “by Chiefs of Mission” and inserting in lieu there-  
18 of “under the Foreign Service Act of 1980 by  
19 chiefs of mission, members of the Senior Foreign  
20 Service,”; and

21 (B) in section 5 (22 U.S.C. 2024)—

22 (i) by striking out “Foreign Service Act of  
23 1946, as amended,” and inserting in lieu thereof  
24 “Foreign Service Act of 1980”, and

1                   (ii) by striking "Foreign Service Act of  
2                   1946, as amended;" and inserting in lieu thereof  
3                   "Foreign Service Act of 1980;".

4       (8) Section 704(b) of the Center for Cultural and Tech-  
5       nical Interchange Between East and West Act of 1960 (22  
6       U.S.C. 2056(b)) is amended by striking out "title X, part C  
7       of the Foreign Service Act of 1946, as amended" and insert-  
8       ing in lieu thereof "section 25 of the State Department Basic  
9       Authorities Act of 1956".

10       (9) Section 104(d) of the Mutual Educational and Cul-  
11       tural Exchange Act of 1961 (22 U.S.C. 2454(d)) is amended  
12       by striking out "section 528" and all that follows through  
13       "such persons" and inserting in lieu thereof "section 310 of  
14       the Foreign Service Act of 1980 for individuals appointed to  
15       the Foreign Service".

16       (10) Section 5(a) of the Migration and Refugee Assist-  
17       ance Act of 1962 (22 U.S.C. 2605(a)) is amended—

18               (A) in paragraph (1) by striking out "Foreign  
19       Service personnel" and inserting in lieu thereof "mem-  
20       bers of the Foreign Service";

21               (B) in paragraph (2) by striking out "Foreign  
22       Service Reserve officers" and inserting in lieu thereof  
23       "members of the Foreign Service serving under limited  
24       appointments"; and

1           (C) in paragraph (4) by striking out "Foreign  
2       Service Act of 1946, as amended (22 U.S.C. 801 et  
3       seq.)" and inserting in lieu thereof "Foreign Service  
4       Act of 1980".

5       (11) Section 403(c) of the International Development  
6       Cooperation Act of 1979 (22 U.S.C. 3503(c)) is amended by  
7       striking out "Foreign Service Act of 1946" and inserting in  
8       lieu thereof "Foreign Service Act of 1980".

9       (b)(1) Section 605A(h) of the Act entitled "An Act to  
10      provide for greater stability in agriculture; to augment the  
11      marketing and disposal of agricultural products; and for other  
12      purposes", approved August 28, 1954 (7 U.S.C. 1765a(h)),  
13      is amended by striking out "Foreign Service personnel" and  
14      inserting in lieu thereof "members of the Foreign Service".

15      (2) Section 606D of such Act (7 U.S.C. 1766c) is  
16      amended by striking out "title IX of the Foreign Service Act  
17      of 1946" and inserting in lieu thereof "chapter 9 of title I of  
18      the Foreign Service Act of 1980".

19      (c)(1) Section 2002(a) of title 10, United States Code, is  
20      amended—

21           (A) in the text preceding paragraph (1) by striking  
22      out "section 1041 of title 22" and inserting in lieu  
23      thereof "section 701(b) of the Foreign Service Act of  
24      1980"; and

1 (B) in paragraph (2) by striking out "section 1041  
2 of title 22" and inserting in lieu thereof "section  
3 701(a) of the Foreign Service Act of 1980".

4 (d) Section 8(a)(1) of the Defense Department Overseas  
5 Teachers Pay and Personnel Practices Act (20 U.S.C.  
6 906(a)(1)) is amended by striking out "section 901(2) of the  
7 Foreign Service Act of 1946 (22 U.S.C. 1131(2))" and in-  
8 serting in lieu thereof "section 5924 of title 5, United States  
9 Code".

10 (e)(1) Section 104(a)(4) of the Internal Revenue Code of  
11 1954 (26 U.S.C. 104(a)(4)) is amended by striking out "sec-  
12 tion 831 of the Foreign Service Act of 1946, as amended (22  
13 U.S.C. 1081)" and inserting in lieu thereof "section 808 of  
14 the Foreign Service Act of 1980".

15 (2) Section 170(i) of the Internal Revenue Code of 1954  
16 (26 U.S.C 170(i)) is amended by amending paragraph (6) to  
17 read as follows:

**"(6) For treatment of gifts accepted by the Secretary of State, the Director of the International Communication Agency, or the Director of the United States International Development Cooperation Agency, as gifts to or for the use of the United States, see section 25 of the State Department Basic Authorities Act of 1956."**

18 (3) Section 912(1)(A) of the Internal Revenue Code of  
19 1954 (26 U.S.C. 912(1)(A)) is amended to read as follows:

20 "(A) chapter 9 of title I of the Foreign Serv-  
21 ice Act of 1980,".

1       (4) Section 2055(f)(5) of the Internal Revenue Code of  
2 1954 (26 U.S.C. 2055(f)(5)) is amended to read as follows:

      “(5) For treatment of gifts, devises, or bequests accepted by the Secretary of State, the Director of the International Communication Agency, or the Director of the United States International Development Cooperation Agency as gifts, devises, or bequests to or for the use of the United States, see section 25 of the State Department Basic Authorities Act of 1956.”.

3       (f) Section 235 of title 38, United States Code, is  
4 amended—

5           (1) in paragraph (1) by striking out “Section 1131  
6 of title 22” and inserting in lieu thereof “Section 905  
7 of the Foreign Service Act of 1980”;

8           (2) in paragraph (2) by striking out “Sections  
9 1136 (1), (2), (3), (4), (5), (7), and (11) of title 22” and  
10 inserting in lieu thereof “Sections 901 (1), (2), (3), (4),  
11 (7), (8), (9), (11), and (12) of the Foreign Service Act  
12 of 1980”;

13           (3) in paragraph (3) by striking out “Section 1138  
14 of title 22” and inserting in lieu thereof “Section  
15 901(13) of the Foreign Service Act of 1980”;

16           (4) in paragraph (4) by striking out “Section 1148  
17 of title 22” and inserting in lieu thereof “Section 903  
18 of the Foreign Service Act of 1980”; and

19           (5) in paragraph (5) by striking out “Section 1156  
20 of title 22” and inserting in lieu thereof “Section  
21 904(d) of the Foreign Service Act of 1980”.

1 (g) Section 415(c) of the Domestic Volunteer Service  
2 Act of 1973 (42 U.S.C. 5055(c)) is amended—

3 (1) in paragraph (1) by striking out “section  
4 852(a)(1) of the Foreign Service Act of 1946, as  
5 amended (22 U.S.C. 1092(a)(1)), and every other” and  
6 inserting in lieu thereof “any”; and

7 (2) in paragraph (2) by striking out “Foreign  
8 Service Act of 1946” and inserting in lieu thereof  
9 “Foreign Service Act of 1980”.

10 CHAPTER 3—AMENDMENTS TO TITLE 5, UNITED STATES

11 CODE

12 SEC. 2301. REEMPLOYMENT RIGHTS.—(a) Chapter 35  
13 of title 5, United States Code, is amended by adding at the  
14 end thereof the following new subchapter:

15 “Subchapter VI—Reemployment Following Limited  
16 Appointment in the Foreign Service

17 “§ 3597. Reemployment following limited appointment in  
18 the Foreign Service

19 “An employee of any agency who accepts, with the con-  
20 sent of the head of that agency, a limited appointment in the  
21 Foreign Service under section 309 of the Foreign Service  
22 Act of 1980 is entitled, upon the expiration of that appoint-  
23 ment, to be reemployed in that employee’s former position or  
24 in a corresponding or higher position in that agency. Upon  
25 reemployment under this section, an employee shall be enti-



1 tled to any within-grade increases in pay which the employee  
 2 would have received if the employee had remained in the  
 3 former position in the agency.”.

4 (b) The analysis for chapter 35 of title 5, United States  
 5 Code, is amended by adding at the end thereof the following:

“Subchapter VI—Reemployment Following Limited Appointment in the Foreign  
 Service

“3597. Reemployment following limited appointment in the Foreign Service.”.

6 SEC. 2302. SALARY FOR AMBASSADORS AT LARGE.—  
 7 Section 5313 of title 5, United States Code, is amended by  
 8 adding the following at the end thereof:

9 “Ambassadors at Large.”.

10 SEC. 2303. ADVANCES OF PAY INCIDENT TO DEPAR-  
 11 TURES FROM POSTS ABROAD.—(a) Section 5522(a) of title  
 12 5, United States Code, is amended—

13 (1) by striking out “evacuation” and inserting in  
 14 lieu thereof “departure”; and

15 (2) by striking out “is ordered for military or  
 16 other reasons which create imminent danger to the life  
 17 or lives of the employee or of his dependents or imme-  
 18 diate family” and inserting in lieu thereof “is officially  
 19 authorized or ordered—

20 “(1) from a place outside the United States from  
 21 which the Secretary of State determines it is in the na-  
 22 tional interest to require the departure of some or all

1 United States Government employees, their depend-  
2 ents, or both; or

3 “(2) from any place where there is imminent  
4 danger to the life of the employee or the lives of the  
5 dependents or immediate family of the employee”.

6 (b) Section 5523(a)(1) of title 5, United States Code, is  
7 amended—

8 (1) by amending subparagraph (A) to read as  
9 follows:

10 “(A) whose departure is authorized or or-  
11 dered under section 5522(a) of this title; and”;  
12 and

13 (2) in subparagraph (B) by striking out “evacua-  
14 tion” and inserting in lieu thereof “departure”.

15 (c) Section 5523(b) of title 5, United States Code, is  
16 amended by striking out “evacuation” both places it appears  
17 and inserting in lieu thereof “departure”.

18 (d) Section 405a(a) of title 37, United States Code, is  
19 amended by striking out “evacuated” and “evacuation”  
20 wherever they appear and inserting in lieu thereof “to  
21 depart” and “departure”, respectively.

22 SEC. 2304. PREMIUM PAY.—Paragraph (2) of section  
23 5541 of title 5, United States Code, is amended—

24 (1) by striking out clauses (xiv) and (xv) and in-  
25 serting in lieu thereof the following:

1           “(xiv) a member of the Senior Foreign Serv-  
2           ice; or”; and

3           (2) by redesignating clause (xvi) as clause (xv).

4       SEC. 2305. ATTORNEYS FEES IN BACKPAY CASES.—

5       Section 5596(b) of title 5, United States Code, is amended—

6           (1) in paragraph (1)(A)(ii) by inserting “or under  
7       chapter 11 of title I of the Foreign Service Act of  
8       1980,” immediately after “chapter 71 of this title,”;  
9       and

10          (2) in paragraph (3)—

11               (A) by inserting “and (with respect to mem-  
12       bers of the Foreign Service) in sections 1101 and  
13       1002 of the Foreign Service Act of 1980” imme-  
14       diately after “section 7103 of this title”; and

15               (B) by inserting “and (with respect to mem-  
16       bers of the Foreign Service) in section 1015 of  
17       the Foreign Service Act of 1980” immediately  
18       after “section 7116 of this title”.

19       SEC. 2306. SEPARATE MAINTENANCE ALLOW-  
20       ANCE.—Section 5924(3) of title 5, United States Code, is  
21       amended—

22           (1) by inserting “or authorized” immediately after  
23       “compelled”; and

24           (2) by inserting “or who requests such an allow-  
25       ance because of special needs or hardship involving the

1 employee or the employee's spouse or dependents,"  
2 immediately after "for the convenience of the Govern-  
3 ment,".

4 SEC. 2307. EDUCATION ALLOWANCE.—Section  
5 5924(4)(B) of title 5, United States Code, is amended by  
6 striking out "(i)" and by striking out "of the Department of  
7 State" and all that follows through "type of education".

8 SEC. 2308. POSTS REQUIRING SPECIAL INCEN-  
9 TIVES.—Section 5925 of title 5, United States Code, is  
10 amended—

11 (1) by striking out "A post" in the first sentence  
12 and inserting in lieu thereof "(a) A post";

13 (2) by inserting "under this subsection" immedi-  
14 ately after "differential" in the last sentence; and

15 (3) by adding at the end thereof the following new  
16 subsection:

17 "(b) Any employee granted a differential under subsec-  
18 tion (a) of this section may be granted an additional differen-  
19 tial for an assignment to a post determined to have especially  
20 adverse conditions of environment which warrant additional  
21 pay as a recruitment and retention incentive for the filling of  
22 positions at that post. An additional differential for any em-  
23 ployee under this subsection—

24 "(1) may be paid for each assignment to a post  
25 determined to have such conditions;

1           “(2) may be paid periodically or in a lump sum;  
2           and

3           “(3) may not exceed 15 percent of the rate of  
4           basic pay of that employee for the period served under  
5           that assignment.”.

6           SEC. 2309. ADVANCES OF PAY.—(a) Subchapter III of  
7           chapter 59 of title 5, United States Code, is amended by  
8           adding at the end thereof the following new section:

9           **“§ 5927. Advances of pay**

10           “Up to three months’ pay may be paid in advance to an  
11           employee upon the assignment of the employee to a post in a  
12           foreign area.”.

13           (b) The analysis of chapter 59 of title 5, United States  
14           Code, is amended by inserting after the item relating to sec-  
15           tion 5926 the following:

          “5927. Advances of pay.”.

16           SEC. 2310. DANGER PAY ALLOWANCE.—(a) Sub-  
17           chapter III of chapter 59 of title 5, United States Code, as  
18           amended by section 2309(a), is further amended by adding at  
19           the end thereof the following new section:

20           **“§ 5928. Danger pay allowance**

21           “An employee serving in a foreign area may be granted  
22           a danger pay allowance on the basis of civil insurrection, civil  
23           war, terrorism, or wartime conditions which threaten physi-  
24           cal harm or imminent danger to the health or well-being of

1 the employee. A danger pay allowance may not exceed  
2 twenty-five percent of the basic pay of the employee.”.

3 (b) The analysis for chapter 59 of title 5, United States  
4 Code, as amended by section 2309(b), is further amended  
5 by inserting after the item relating to section 5927 the  
6 following:

“5928. Danger pay allowance.”.

7 SEC. 2311. LEAVE.—(a) Section 6301 of title 5, United  
8 States Code, is amended by adding at the end thereof the  
9 following new sentence:

10 “Notwithstanding clauses (x)–(xii) of paragraph (2), the term  
11 ‘employee’ includes any member of the Senior Foreign Serv-  
12 ice or any Foreign Service officer (other than a member or  
13 officer serving as chief of mission or in a position in the De-  
14 partment of State which requires appointment by and with  
15 the advice and consent of the Senate) and any member of the  
16 Foreign Service commissioned as a diplomatic or consular  
17 officer, or both, under section 312 of the Foreign Service Act  
18 of 1980.”.

19 (b) Section 6304 of title 5, United States Code, is  
20 amended—

21 (1) in subsection (a) by striking out “and (f)” and  
22 inserting in lieu thereof “(f), and (g)”; and

23 (2) by adding at the end thereof the following new  
24 subsection:

1       “(g) Annual leave accrued by a member of the Senior  
2 Foreign Service shall not be subject to the limitation on accu-  
3 mulation otherwise imposed by this section.”.

4       SEC. 2312. RETIREMENT CREDIT FOR IMPRISONED  
5 FOREIGN NATIONALS.—Section 8332(b) of title 5, United  
6 States Code, is amended by striking out “and” at the end of  
7 paragraph (8), by striking out the period at the end of para-  
8 graph (9) and inserting in lieu thereof “; and”, and by insert-  
9 ing after paragraph (9) the following new paragraph:

10           “(10) periods of imprisonment of a foreign nation-  
11 al for which compensation is provided under section  
12 409 of the Foreign Service Act of 1980, if the individ-  
13 ual (A) was subject to this subchapter during employ-  
14 ment with the Government last preceding imprison-  
15 ment, or (B) is qualified for an annuity under this  
16 subchapter on the basis of other service of the  
17 individual.”.

18       SEC. 2313. CONFORMING AMENDMENTS TO TITLE  
19 5.—(a) Section 3323(c) of title 5, United States Code, is  
20 amended by striking out “Foreign Service officer retired  
21 under section 1001 or 1002 of title 22 or a Foreign Service  
22 staff officer or employee retired under section 1063 of title  
23 22” and inserting in lieu thereof “member of the Foreign  
24 Service retired under section 812 of the Foreign Service Act  
25 of 1980”.

1 (b) Section 5102(c)(2) of title 5, United States Code, is  
2 amended by striking out "employees in the Foreign Service  
3 of the United States whose pay is fixed under chapter 14 of  
4 title 22" and insert in lieu thereof "members of the Foreign  
5 Service whose pay is fixed under the Foreign Service Act of  
6 1980".

7 (c)(1) Section 5301(c) of title 5, United States Code, is  
8 amended—

9 (A) by inserting "or" at the end of paragraph (1);

10 (B) by striking out paragraph (2); and

11 (C) by redesignating paragraph (3) as paragraph  
12 (2).

13 (2) Section 5303(a) of title 5, United States Code, is  
14 amended—

15 (A) by inserting "or" at the end of paragraph (1);

16 (B) by redesignating paragraph (3) as paragraph  
17 (2);

18 (C) by striking out "; or" at the end of such re-  
19 designated paragraph and inserting in lieu thereof a  
20 period; and

21 (D) by striking out paragraph (4).

22 (3) Section 5304 of title 5, United States Code, is  
23 amended by striking out "chapter 14 of title 22" and insert-  
24 ing in lieu thereof "the Foreign Service Act of 1980".



1 (d) Section 5724(g) of title 5, United States Code, is  
2 amended by striking out "chapter 14 of title 22" and insert-  
3 ing in lieu thereof "the Foreign Service Act of 1980".

4 (e) Section 5727(e)(2) of title 5, United States Code, is  
5 amended to read as follows:

6 "(2) This section, except subsection (a), does not affect  
7 section 403e(4) of title 50."

8 (f)(1) Section 6301(2)(xii) of title 5, United States Code,  
9 is amended by striking out "an officer who receives pay  
10 under section 866 of title 22" and inserting in lieu thereof "a  
11 chief of mission (as defined in section 102(a)(3) of the Foreign  
12 Service Act of 1980)".

13 (2) Section 6305(b) of title 5, United States Code, is  
14 amended by striking out "an officer" and inserting in lieu  
15 thereof "a chief of mission".

16 (g) Section 8501(1)(C) of title 5, United States Code, is  
17 amended by striking out "Foreign Service personnel for  
18 whom special separation allowances are provided under  
19 chapter 14 of title 22" and inserting in lieu thereof "mem-  
20 bers of the Foreign Service for whom special maintenance  
21 allowances are provided under section 5924 of this title".

22 CHAPTER 4—SAVING PROVISIONS, CONGRESSIONAL  
23 OVERSIGHT, AND EFFECTIVE DATE

24 SEC. 2401. SAVING PROVISIONS.—(a) All determina-  
25 tions, authorizations, regulations, orders, agreements, exclu-

1 sive recognition of an organization or other actions made,  
2 issued, undertaken, entered into or taken under the authority  
3 of the Foreign Service Act of 1946 or any other law re-  
4 pealed, modified, or affected by this Act shall continue in full  
5 force and effect until modified, revoked, or superseded by ap-  
6 propriate authority. Any grievances, claims, or appeals which  
7 were filed or made under any such law and are pending reso-  
8 lution on the effective date of this Act shall continue to be  
9 governed by the provisions repealed, modified, or affected by  
10 this Act.

11 (b) This Act shall not affect any increase in annuity or  
12 other rights to benefits, which was provided by any provision  
13 amended or repealed by this Act, with respect to any individ-  
14 ual who became entitled to such benefit prior to the effective  
15 date of this Act.

16 (c) References in law to provisions of the Foreign Serv-  
17 ice Act of 1946 or other law superseded by this Act shall be  
18 deemed to include reference to the corresponding provisions  
19 of this Act.

20 SEC. 2402. CONGRESSIONAL OVERSIGHT OF IMPLE-  
21 MENTATION.—(a) Within fifteen months after the effective  
22 date of this Act, the Secretary of State shall submit to the  
23 Speaker of the House of Representatives and to the Commit-  
24 tee on Foreign Relations of the Senate a report describing  
25 the implementation of this Act during the fiscal year 1981 by

1 the agencies utilizing the Foreign Service personnel system.

2 Such report shall—

3 (1) describe the steps taken and planned in fur-  
4 therance of (A) maximum compatibility among such  
5 agencies, as provided for in section 203, and (B) the  
6 development of uniform policies and procedures and  
7 consolidated personnel functions, as provided for in  
8 section 204;

9 (2) indicate the progress made by each such  
10 agency in the conversion of personnel and position  
11 classifications in accordance with chapter 1 of this  
12 title; and

13 (3) specify the upper and lower limits planned by  
14 each such agency for recruitment, advancement, and  
15 retention of members of the Service, as provided for in  
16 section 601(c)(2), including with respect to each of the  
17 relevant promotion competition groups the projected  
18 ranges of rates of appointment, promotion, and attrition  
19 over each of the five fiscal years 1981 through 1985.

20 (b) Beginning in 1982, the Secretary of State shall  
21 submit each year to the Speaker of the House of Representa-  
22 tives and to the Committee on Foreign Relations of the  
23 Senate a supplemental report describing any relevant devel-  
24 opments with respect to the matters reported on under para-  
25 graphs (1) and (2) of subsection (a) and, with respect to para-

1 graph (3) of such subsection, a revised projection of the  
2 ranges of rates of appointment, promotion, and attrition over  
3 each of the next five years, as well as a comparison of such  
4 projections with the projections for the preceding year and  
5 with actual rates of appointment, promotion, attrition. The  
6 report shall explain fully any deviations from projections re-  
7 ported in the preceding year.

8 (c) The Secretary shall consult, in accordance with the  
9 procedures set out in section 1013(g), with the exclusive rep-  
10 resentative (if any) of members of the Foreign Service in each  
11 agency specified in section 1003(a) with respect to steps to  
12 be taken in implementing this Act and reported under this  
13 section. To that end, each such exclusive representative will  
14 have timely access to all relevant information at each stage.  
15 Each such report shall include the views of each such exclu-  
16 sive representative on any and all aspects of the report and  
17 the information contained in such report.

18 SEC. 2403. EFFECTIVE DATE.—(a) Except as other-  
19 wise provided, this Act shall take effect on October 1, 1980.

20 (b)(1) Chapter 8 of title I of this Act shall take effect on  
21 the later of October 1, 1980, or the 90th day after the date of  
22 enactment of this Act. If such effective date is after October  
23 1, 1980, the provisions of sections 519, 631, 632, and 636  
24 and of title VIII of the Foreign Service Act of 1946, and the  
25 provisions of section 8 and 9 of Public Law 90-494, shall

1 remain in effect until such effective date, notwithstanding the  
2 repeal of those provisions by section 2205.

3 (2) The provisions of such chapter regarding the rights  
4 of former spouses to any annuity under section 814(a) shall  
5 apply in the case of any individual who after such effective  
6 date becomes a former spouse of an individual who separates  
7 from the Service after such date.

8 (3) The provisions of such chapter regarding the rights  
9 of former spouses to receive survivor annuities under section  
10 814(b) shall apply in the case of participants or former par-  
11 ticipants in the Foreign Service Retirement and Disability  
12 System who die after such effective date.

13 (4) Nothing in such chapter shall be construed to affect  
14 payments of annuities for months beginning before such effec-  
15 tive date.

16 (c) Regulations to carry out this Act may be prescribed  
17 (but may not become effective) prior to October 1, 1980.

○